

Modus tenendi Parliamentum:

O R,

The Old Manner of holding

PARLIAMENTS

in *ENGLAND*.

Extracted out of our Ancient

RECORDS.

With certain Municipal Rights and
Customes of *England*.

Together with some

PRIVILEGES of PARLIAMENT:

The Manner and Method how Laws are
there Enacted by *Passing of Bills*.

Collected out of the Journal of the
House of **COMMONS**.

By **W. HAKWELL** of *Lincolns-Inn*, Esq.

London, Printed for *Abel Roper* at the Sun
in *Fleet-street*, 1671.

John Tennant & Co. Ltd.

The Old Manner of holding

PARLIAMENTS

THE

Extracted out of our

RECORDS

of the

41

11 6

612

THE

THE

THE

THE

THE

THE

THE

THE





TO THE INTELLIGENT

READER.

IT is no improper Character which may be given of the Law, that it is nothing else but Reason refin'd, or Reason regulated; it may also be well called the Results of Counsel and Wisdom, after mature and long deliberation; for *Deliberandum est diu, quod statuendum est semel*: That which is to bear the stamp of a Law, must be a long time a moulding: there must be previous debates, bandings of arguments, and clashings of opinions pro & con go before: for as we find that fire issueth forth from the concussion of flint and iron, so truth comes forth out of

To the Reader.

the eventillations and clashing of
several opinions. This hath been
alwayes the mode and method of
our English Parliaments, that high
National Court, which may be said
to be the fountain whence our Lawes
do spring: which Court being com-
posed of a number of the choicest
and most judicious Gentlemen of
the whole land when there assem-
bled, have power not onely to consti-
tute and enact new Lawes, but to en-
large, alter, repeal, disannul, or revive
any old Statute, Act, or Ordinance
for the common good and incolumi-
ty, as also for the welfare and se-
curity of the Nation: This great
Council hath been alwayes held to
be the Bulwark of our liberties, the
main boundary and bank which
keeps us from the inundations of
tyrannical power, from arbitrary
and unbounded will-Government;
It is the only prerogative of Parlia-
ment *jus dare*, and afterward of the
grave

To the Reader.

grave Judges upon their severall
Tribunals *ius dicere*, to declare, ex-
pound, and put in execution the
Lawes, and Constitutions which
have been there enacted.

This present Treatise consisting
of sundry Material parts, will shew
us the manner and legal forms how
this high Court of Parliament hath
been held from the beginning. It
was compiled by that worthy Gentle-
man Mr. Hakewel, one of the
Bencheres of Lincolns-Inn, a grave
and judicious Councellor at law, one
who had sate in divers Parliaments,
and having out of his great read-
ing, and long conversation with an-
tiquity, extracted those remark-
able observations whereof this book
is composed, it was thought ex-
pedient to publish it for the gene-
rall good. Therefore it is very
fit to be read by all free-born Sub-
jects, for thereby they will inform
their

To the Reader.

*their understandings upon what
grounds our Lawes and Liberties
are founded.*

The



THE MANNER
OF HOLDING
A
PARLIAMENT
in the second of

EDWARD the Confessor
Son of K. *Etbeldred*.



Ere is described the
Manner after which
the *Parliament* of the
King of *England*, and
of his English People
was kept in times of
King *Edward* the Son of *Etbeldred* the
King; which manner was rehearsed
by the discreet sort of the Kingdom,
before *William* Duke of *Normandy*, the
Conqueror, and King of *England*; the
Conqueror himself commanding this;
and by himself approved and used in
in his times, and in the times of his
Successors Kings of *England*.

B

Of

Of the Summons of Parliament.

The Summons of *Parliament* ought to go forty dayes before the first day of the *Parliament*.

Concerning the Clergy.

The *Parliament* ought to be summoned and come, the Arch-Bishops, Bishops, and other chief of the Clergie, who come thither by holding of some County or Barony, and because of such tenure, and not otherwise; and none of the less degree of the Clergy, unless their presence or coming thither may be required in some other respect then by their Tenures; or, unless they be of the Kings Counsel, or their presence may be deemed necessary, or accounted profitable for the *Parliament*: and the King is bound to minister unto them their costs and expences in coming and tarrying at the *Parliament*. Neither ought such of the lower degree of the Clergy-me to be summoned to the *Parliament*, but the King was wont together to send

Per Comitatum & Baron. summoneri debent. Minoribus Clericis non summoneri debent, sed si eorum presentia necessaria fuerit. Rex solebat talibus brevibus suis mittere, regans quod Parliamentum suo interessent.

send out his Writs to such men, requiring them that they should be present at his *Parliament*.

Also the King was wont to give Summons to the Arch-bishops, Bishops, and others exempted persons; or to Abbots, Priors, and other Ecclesiastical persons, that have by such exemptions and priviledges their several jurisdictions, according to their several Deaneries, and Arch-deaneries of *England*, through their Deaneries and Arch-deaneries aforesaid, should cause to be chosen two skilful and fit Proctors or Clerks of the Convocation-house out of the same Arch-deanery, to come and to be present at, to answer, to undergoe, to alledge and to do there, that which all and every Parson of their Deaneries, and Arch-deaneries should, if they, and all, and every of them were personally present there. And that such Proctors or Clerks of the Convocation house come with their two Warrants, sealed with the seals of their superiours, because they are chosen and sent to such a Proctorship: The one of which Letters should be delivered to the Clerk

of the *Parliament* to be enrolled, and the other remain in the Proctors and Clerks themselves: and so under these two kinds of Summons, the whole Clergy ought to be Summoned to the Kings *Parliament*.

Concerning the Laity.

Also all and every Earl, and Baron, and their Peers ought to be summoned and come to the *Parliament*, to wit, those that have Lands and Revenues to the value of a whole County, which maketh four hundred pounds in the whole; or to the value of one whole Barony, to wit, Thirteen fees, and the third part of one Knights fee, every fee being reckoned at twenty pounds, makes in the whole four hundred marks; and no lower Lay-men ought to be summoned to come to the *Parliament* by reason of their tenure, unless their presence for other causes be profitable and necessary to the *Parliament*; and then they ought to be dealt withall, as is said of the lower degree of the Clergy, men who are not bound by reason of their tenure to come to the *Parliament*.

*Summoneri
debent om-
nes & sin-
guli Comi-
tes, Barones
&eor. pares
qui tenent
ad valent.
unius Co-
mitat. vel
Baron. in-
segra.*

*Minores
laici sum-
moneri non
debent.*

Also the King was wont to send his Writs to the Warden of the Cinque Ports, that he might cause to be chosen to come and be present at the *Parliament* to answer, undergo, and do there that which their Burroughs themselves should do, if all and every one of them were personally present there; and such Barons should come with their two Warrants sealed with the common Seals of their Ports, to shew that they were orderly chosen, and sent from the Baronies to that end; the one whereof shall be delivered to the Clerk of the *Parliament*, and the other to remain with the Barons themselves: And when such Barons of the Ports, having obtained License, should depart from the *Parliament*, then they were wont to have a Writ under the great Seal of the Warden of the Cinque Ports, that they might have their reasonable Costs and Expences, meet for such Barons, out of the County of the Port from whence they came towards the *Parliament*, until the day wherein they returned home.

to their own houses, there being express mention made in the Writ of the stay they made at the *Parliament*, and of the day wherein to return. Yea, there was wont sometimes mention to be made in the Writ, how much such Barons should take of the Counties from whence they came for a day, to wit, some had more, some had less, according to the ability, and honesty of the persons themselves; neither were they wont to put down for two Barons above twenty shillings by the day, and yet therein had they respect to the charges of their stayings, labour, and expence; neither were such uncertain expences to be put down, and allowed by the Court, for all and every one so chosen and sent for their Counties, unless the persons themselves were honest, and behaved themselves well in the *Parliament*.

*Touching the Knights of
the Shire.*

Also the *King* was wont to send his Writs to all the Sheriffs of *England*, that every one might cause to be

be chosen out of his own County, through the Countrey it self, two Knights, fit, honest and skilful, to come to his *Parliament*, after the same manner which is spoken of the Barons of the Ports; and for their Warrants they should come after the same manner.

But for the expences out of one County, for two Knights, there was not wont to be set down and allowed above one Mark a day, and now eight shillings a day, to wit, for every one of them four shillings.

Touching the Citizens.

After the same manner Commandement was wont to be given to the Major and Sheriffe of *London*, the Major and Bayliffs to the Major and Citizens of *York*, and of other Cities, that they for the County of their City should choose two fit, honest and skilful Citizens to come to the *Parliament*, after the same manner which is spoken of the Barons of the Cinque Ports, and the Knights of the Shires; and the Citizens were wont to be

Peers and equals with the Knights of the Shires in expences, all the while they came, tarried, and returned from the *Parliament*.

Touching the Burgeses.

After the same manner commandment was wont to be given to the Bailiffs and honest men of Burroughs and Towns Corporate, that they ought of themselves and by themselves to chuse two fit, honest and skilful Burgeses to come and be present at the Kings *Parliament*, after the same manner as is spoken concerning Citizens: but two Burgeses were not wont to receive by the day for their expences above ten shillings, and sometimes not above a Noble, which was wont to be taxed by the Court, according to the greatness of the Burroughs, and the persons sent. Hitherto hath been declared the form, quality, and persons, how long a time before, the summons of the *Parliament* ought to be made; and who are those that ought to come by the summons, and who not.

Now secondly, we must shew who they

they are which by reason of their Offices ought to come, and are bound to be present at the *Parliament*-time without summons: whereupon we must make the two principal Clerks of the *Parliament* elected by the King and his Council, and other secondary undertakers, of whom, and whose Offices we will speak more specially afterwards; and the principal Cryer of *England* with their Under-Cryers; and the principal Porter of *England*; which two Offices were wont to belong to one person: These two Officers are bound to be present the first day.

The Chancellor of *England*, the Treasurer and Chamberlains, and Barons of the Exchequer, Justices, and all the Clerks, and the Kings Knights, together with them that sue for the Kings Pleas, who are of the Kings Council, are bound to be present the second day, unless by order they be excused;

Touching the beginning of Parliament.

The Lord the King shall sit in the midst of the great Bench, and is bound to be present in the first and last

day of *Parliament*. And the Chancellor, Treasurer, Barons of the Exchequer, and Justices were wont to record the defaults made in *Parliament*, according to the order following.

In the First day the Burgeſſes, and Citizens of all *England* ſhall be called; at which day if they do not come, the Shires ſhall be amerced at an hundred pounds.

In the Third day of the *Parliament* the Barons of the Cinque-Ports ſhall be called, and afterwards the Barons of *England*, after them the Earls: Whereupon if the Barons of the Cinque-Ports do not come, the Barony from whence they are ſhall be amerced at an hundred Marks, and an Earl at an hundred pounds. And after the ſame manner it muſt be done with thoſe that are equal to Earls and Barons, namely, which have Lands and Revenews to the value of an Earldom, or of one Barony, as before ſaid.

In the Fourth day, the Proctors of
the

the Clergy or Clerks of the Convocation-house shall be called ; if they come not, their Bishops shall be amerced for every Arch-deanery one hundred pounds.

In the First day, the Deans, Priors, Abbots, Bishops, and at length the Archbishops shall be called ; who if they do not come, every Archbishop, shall be fined at an hundred pounds ; and every one holding a whole Barony or Abbots, Doctors at an hundred Marks.

In the First day Proclamation ought to be made in the Hall, or in the Monastery, or in some publick place, where the Parliament is to be held, and afterwards publickly in the City or Town, *That all those who would deliver Petitions or Bills to the Parliament, that they may deliver them the First day, and so other five days next following.*

Touch

*Touching the Preaching at the
Parliament.*

An Arch-bishop or Bishop, or some great Clerk discreet and eloquent, chosen by the Arch-bishop in whose Province the *Parliament* is held, ought to preach one of the said five dayes of *Parliament*, and in the presence of the King: and this must be done when the *Parliament* for the greater part shall be joyned and gathered together. In his Sermon, he shall admonish and exhort the whole *Parliament*, that they with him humbly pray God, and worship him for the peace and tranquillity of the King and Kingdom, as shall be said in the Title following.

*Touching the Speech for the
Parliament.*

After preaching, the Chancellor of *England*, or the Lord chief Justice of *England*, or some other fit, honest, and eloquent Justice or Clerk chosen by the Chancellour, or chief Justice themselves, ought, standing to pronounce

Parliaments in England.

nounce the causes of the *Parliament*. Whosoever they be, whilst they speak, shall stand (except the King) so that all of the *Parliament* might hear him that speaketh, or if he speak something darkly, or talk in a low voice, let him speak again, and speak louder also, or let another speak for him.

Touching the Speech of the King after the Speech before men- tioned.

The King (after the Speech before-mentioned) ought to require the Clergy and Laity, naming them after their degrees, as Archbishops, Bishops, and Abbots, &c. Earls, Barons, Knights, Citizens, &c. that they carefully, diligently, and heartily labour throughly to handle, labour, and deliberate in the business of the *Parliament*, even as they shall understand and perceive that this shall be first according to the will and pleasure of God, and afterwards for his and their honours and commodities.

*Touching the Places and sitting
in the Parliament.*

First, as I before said, the King shall sit in the mid place of the great Bench, and at his right side shall sit the Arch-bishop of *Canterbury*, the Bishops of *London*, and of *Winchester*, and after them in order and course, the other Bishops, Abbots and Priors; and on the left side the King, the Arch-Bishop of *York*, the Bishops of *Darham*, and *Carlisle*, and after them, the Earls, Barons, &c. making alwayes a division of place between the foresaid degrees, and their places, that none sit but amongst Peers and his equals; and the Steward of *England* to look to this, unless the King will assign some other to it. At the Kings foot, at the right side shall sit the Chancellor of *England*, and the Chief Justice of *England*, and their fellows, and their Clerks who are of the *Parliament*; and at his foot on the left side shall sit the Treasurer and Chamberlain, and Barons of the Exchequer, the Justices of the Bench, and

and their Clerks who are of the
Parliament.

*Touching the principal Clerks of
the Parliament.*

There are two principal Clerks of the *Parliament*, who shall sit in the midst of the Justices, who shall enroll all the Pleas and business of the *Parliament* : and we must know these two Clerks are not subject to every Justice, neither is every Justice in *England* Justice in the *Parliament*, neither have they of themselves Record in the *Parliament*, unless so far forth as new power shall be assign'd and given to them in the *Parliament* by the King and the Peers of the *Parliament*, and when they are assigned with other choice men of the *Parliament* to hear and determine divers Petitions and Complaints offered in *Parliament*; but these two Clerks are immediately subject to the King and his *Parliament* in common, unless perhaps one Justice or two be assigned to examine and amend their Inrollments : And when the Peers of the *Parliament*, to hear

hear and examine some Petitions by themselves, then when they shall be of one mind and agreeing in rendring their judgments to such Petitions, and the Proceſs made concerning the ſame, and they ſhall give their judgment in full *Parliament*, ſo that the other two Clerks principally inroll all the Pleas, and all the judgments in the principal Roll of the *Parliament*, and ſhall deliver theſe Rolls to the Treasuſer before the going away of the *Parliament*, referring yet notwithstanding to the ſame Clerks, one Transcript, and Counter-Roll thereof, if they will have it.

Theſe two Clerks, unleſs they be in other Office under the King, and take of him ſuch fees as whereby they may live honeſtly and well; ſhall receive of the King every day a Mark, for their expences, to be divided between them by equal portions, unleſs they be at the Kings board; otherwiſe half a Mark a day, during all the *Parliament*.

*Touching the five Clerks of the
Parliament.*

The King shall assign or appoint five skilful Clerks, the first whereof shall be Minister to, and serve the Bishops. The second, the Proctors of the Clergy, or the Clerks of the Convocation-house. The third, the Earls and Barons. The fourth, the Knights of the Shire. The fifth, the Citizens and Burgeses: and every one of them, unless he be with the King, and take of him such a fee, or such Revenews that he may thereupon live honestly, he may take by the day two shillings of the King, unless he be of the Kings board; if he be, then to have but twelve pence: which Clerks shall write the doubts and answers, that they which shall be present at the *Parliament* make to the King, and at the *Parliament*, and communicate their Counsels unto them, whensoever they will have them; and when they shall be at leisure, they will send the principal Clerks to inroll them.

Com-

*Concerning Cases and Judgments which
are hard.*

*De casi-
bus & Ju-
diciis diffi-
cilibus.*

*Cum du-
bitat &
difficilis
casus,
pacis vel
guerre e-
mergat,
&c.*

When a Cause of Truce, Doubt, or hard Case of Peace or War doth break forth, or otherwise the Case be referred in writing in full *Parliament*, and left, it to be handled and disputed there between the Peers or equals; and if it be needful, let it be enjoined by the King, or on the Kings part, if the King be not present to every degree of Peers or equals; that every degree it self may go thereto it self, & let that case be delivered to their Clerk in writing, & let them cause the Case to be recited before them, so that they do ordain & consider among themselves how, and after what sort they may better proceed, and more justly in that Case, as they for the person of the King, and their own persons, and the persons also of those whom they represent will answer before God; let them bring their answer and advice in writing, and let them proceed in all their Answers, Counsels and Advises heard of either side, or to and fro (as we said) according to better and more sound counsel and judgment; and when

when at the least the greater part of the *Parliament* doth agree. And if by the discord between the King and some Noblemen themselves, either the people may be weakned, or the Countrey may be troubled; so that it seem to the King his Council, that it were expedient the business be handled and amended by consideration of all the Peers of the Kingdom: Or if through War the King or Kingdom might be troubled; or if a hard Case do come before the Chancellor of *England*, or a Matter hard to be judged of shall be brought before the Justices, or such like: or if perhaps in such deliberations, all, or at least the greater part cannot agree, then the Earl that is Steward, the Earl that is Constable, and the Earl Marshal, or two of them, shall chuse five and twenty persons of all the Peers of the Kingdom; and three Proctors or Clerks of the Convocation-house, for the whole Clergy; two Earls and three Barons, five Knights of the Shire, five Citizens and Burgeffes, who make five and twenty; and those five and twenty may chuse, if they will,

will, twelve of them, and condescend to them; and those twelve chuse six, and condescend no fewer, unless licence be obtained from the Lord the King. And if the King consent to three, these three may condescend to two, and may descend to another, and so at length his Ordinance shall stand above the whole *Parliament*, and so condescend from twenty and five persons to one onely person, unless the greater number will agree and ordain, at the length, one person, as is said, shall agree for all, who cannot disagree from himself. This being observed, and also reserved, the King and his Council, that they may examine and amend such Ordinance after them, which shall be written, if they know how to do it, and will perform it; yet so, as they do it there in full *Parliament*, and by the consent of the *Parliament*, and not contrary to the *Parliament*.

*Touching the Order of deliberating
business in the Parliament.*

The business for which the *Parliament* ought to be deliberated on, accord-

Parliaments in England.

According to the Calendar of the *Parliament*, and according to the Petitions, and affiled, no respect being had to any person; let him first handle his Cause that first propounded it. In the Calendar of the *Parliament*, there ought to be rehearsed all the busineses of the *Parliament*, and that after this order:

First, concerning War (if there be any War) and concerning the other busineses, touching the persons of the King, of the Queen, and of their Children.

Secondly, Concerning the common busineses of the Kingdom, as of making Laws, when there shall be lack of Law original, judicial, or executory of particular persons.

Thirdly, The busines of particular persons, and that according to the Petitions offered, as is afore said.

Touching the dayes and hours of the Parliament.

The *Parliament* ought not to be held on the *Lords-day*, but on the other

ther days following, that day alwayes excepted, and three other, to wit, of *All Saints*, of *All Soules*, and of the *Nativity* of Saint *John Baptist*. It may be held, and ought every day to begin at one of the clock in the afternoon, at which hour the King is to be present at the *Parliament*, and all the Peers of the Kingdom. The *Parliament* ought to be held in a publick place, and not in a private or secret place. In the Holy-dayes the *Parliament* ought to begin at one of the clock, because of Divine-service.

*Touching the Porters of the
Parliament.*

The principal Porter of the *Parliament* shall stand beneath the great Gate of the Monastery, Hall, or other place, where the *Parliament* is held, and must keep the door, so that none come into the *Parliament* but he which ought to come to the *Parliament*, or shall be called for the business which he followeth in *Parliament*; and it behoveth that the party have knowledge of the persons which should

should come in, so that none at all be denied entrance which is bound to be present at the *Parliament*. And the Porter ought, if it be needful, to have more Porters under him.

*Touching the Cryer of the
Parliament.*

The Cryer of the *Parliament* shall stand without the door of the *Parliament*, and the Porter shall declare to him their Cryers.

The King was wont to assign Sergeants at Arms, to stand a great while together without the door of the *Parliament*, to make the door, so that none should make thrusting or tumults about the door, by which the *Parliament* might be hindred, upon pain of taking of their bodies, because of right the door of the *Parliament* ought not to be shut, but to be kept by Porters, or Kings Sergeants at Arms.

Touch;

*Touching the standing of them
that speak in the Parliament.*

All the Peers of the *Parliament* shall sit, and none shall stand, but when he speaketh; so that every one of the *Parliament* may hear him. None shall enter into *Parliament*, nor go out of *Parliament*, but by one door: and whensoever he speaketh any thing which ought to be deliberated on by the *Parliament*, all they that speak shall stand; the cause is, that he may be heard of the Peers; all which Peers are Judges and Justices, &c.

Touching the help and aid appointed for the King.

The King was not wont to require help or aid of his Kingdom, unless it were for War at hand, or for making his sons Knights, or for marriages of his daughters; and then he ought to require such help in full *Parliament*, and deliver it in writing to every degree of the Peers of the
Parlia-

Parliament, and to answer the same in writing. And we must know that for the granting of such helps and aid, it behoveth that all the Peers of the Parliament agree. And we must understand that two Knights which come to the Parliament for the Shires and County out of which they come, have a greater voice in Parliament to grant, than the greatest Earl in England: and after the same manner the Proctors for the Clergy, or Clerks of the Convocation House for one Bishoprick, have a greater voice in Parliament, if they all agree, than the Bishop himself. And this is true in all things which ought to be granted or denied to the party, or are to be done therein. And this is manifest, because the King may hold Parliament with the Commonalty and Commons of the Kingdom without Bishops, Earls, and Barons, yet so, as they be summoned to the Parliament, although no Bishop, Earl or Baron come according to their summons, because in times past, neither was there Bishop, Earl nor Baron, and yet even then Kings kept their Parliament: but it is

far otherwise, on the other side; for though the Commonalty, to wit, Laitie and Clergy were summoned to the *Parliament*, (as of right they ought to be) yet for some certain causes they would not come, as if they would pretend that the King did not govern them as he ought, and would in speciality point out the Articles in which he misgoverned them, as he ought not; that then that *Parliament* is utterly none at all, though the Archbishops, Bishops, Earls, Barons, and all their Peers and equals were there with the King at it: and therefore all things which are to be affirmed or informed, granted or denied, or to be done by the *Parliament*, must be granted by the Commonalty of the *Parliament*, which standeth upon three degrees or sorts gathered together in *Parliament*, that is to say, the Proctors of the Clergy, the Knights of the Shires, the Citizens and Burgeses, who indeed represent the whole Commonalty of *England*; and next upon the whole Noblemen, because every one of them is at the *Parliament* in his own proper person, and none other.

Tonch.

*Touching the Absence of the King
in the Parliament.*

The King is bound by all means possible to be present at the *Parliament*, unless he be detained or let therefrom by bodily sickness, and then he may keep his Chamber, yet so as he lie not without the Mannour or Town at the least, where the *Parliament* is held; and then he ought to send for twelve persons of the greatest and best of them, that are summoned to the *Parliament*; that is, two Bishops, two Earls, two Barons, two Knights of the Shire, two Burgeses, and two Citizens to look upon his person, to testifie his estate, and in their presence he ought to make a Commission, and give authority to the Archbishop of the place, the Steward of *England*, and Chief Justice, that they joyntly and severally should begin the *Parliament*, and continue the same in his name, expresse mention being made in that Commission of the cause of his absence then; which ought to suffice and admonish the o-

C 2

ther

ther Nobles and chief men in the *Parliament*, together with the evident testimony of the aforefaid twelve Peers of theirs; the reason is, becaufe there was wont to be a cry or murmur in the *Parliament* for the King's abfence, becaufe his abfence is hurtful and dangerous to the whole Commonalty of the *Parliament* and Kingdom, when the King fhall be abfent from his *Parliament*; neither indeed ought he or may be abfent but only in the cafe aforefaid.

Touching the departure, or breaking up of the Parliament.

The *Parliament* fhould not depart fo long as any Petition made thereto hangeth undiffcuffed or undecided, or at the leaft to which there is not made a determinate answer: The Kings Majesty being defirous of his grace and favour to give the Subject redrefs of any injury, and not to fuffer his people to go unfatisfied. None of all the Peers or Equals of the *Parliament* may or ought to depart alone from the *Parliament*, unlefs he have obtain-

obtained (and that in full *Parliament*) leave of the King, and of all his Peers or Equals, so to do; and that withall there a remembrance kept in the *Parliament* roll of such leave and liberty granted. And if any of the Peers or Equals, during the time of the *Parliament*, shall be sick or weak, so as he is not able to come to the *Parliament*, then he must three dayes together send such as may excuse him to the *Parliament*: but if they come not, then let there be sent from the *Parliament* two of his Peers or Equals to go and to certifie of his infirmity. And if there be any suspicion, let these two Peers or Equals be sworn that they shall speak the truth concerning the same: and if it be found out that he did feign or counterfeit, let him attorney or appoint some sufficient man before them to be present at the *Parliament* in his stead, if he will; neither can he be further excused if he be of sound memory.

Departing of the Parliament.

Ought to be in such a manner: First it ought to be demanded, yea and publicly proclaimed in the *Parliament*, and within the Palace of the *Parliament*, whether there be any that hath delivered a Petition to the *Parliament*, and hath not received answer thereto; if there be none such, it is to be supposed that every one is satisfied, or else answered unto at the least, so far forth as by law he may be.

Touching the Transcript or Writing out of Records, and Process made in Parliament.

The Clerk of the *Parliament* shall not deny to any man a Transcript or Copy of his Process, or Process in *Parliament*, if he do desire it; and the Clerk shall take alwayes for ten lines but one penny, unless haply that he that requireth the Transcript will give his faith, that he is not able to give it, and in that case he shall take nothing:

The

The Roll of the *Parliament* should contain in breadth ten inches; and the *Parliament* shall be held in what place it shall please the King.

Of the degrees of the Peers or Equals of the Parliament.

The King is the Head, the beginning and the ending; and so he hath not any Peer or Equal.

The second degree is of Archbishops, Bishops, Abbots, &c. holding by Baronies.

The third is of Proctors of the Clergy, or Clerks of the Convocation.

The fourth is of Earls, Barons, and others, great and noble personages, as afore said.

The fifth degree is of the Knights of the Shire.

The sixth degree is of Citizens and Burghesses; and so the whole *Parliament* stands of six degrees: But we must know, that though any of the five degrees besides the King shall be absent, yet premonished by summons, the *Parliament* is taken for full.

The Prerogative of the High Court of Parliament.

Of all the Courts of Judicature in *England*, the Court of Parliament is the chiefest and greatest Council of Estate, called and appointed by the Kings Majesty, the Lords of the upper House by personal Writs of Summons; And for the Commons House, a general Writ is sent to the Sheriff of every Shire or County, to call together all such freeholders, (which can dispend forty shillings yearly out of their own free lands at least) for the electing two Gentlemen for Knights of the Shire: the like is directed to the Cinque Ports, for choice of their Barons, to each City, Burrough, Town, and University, for choice of two Burgeses, for every of them, to represent their several bodies in Parliament.

The time and place appointed.

[This honourable Assemblies meeting is noticed by the Kings Majesty to all his Subjects by Proclamation.

The

The end of calling this great Assembly, is either the disturbance of the Church by Heresie or Schism, danger of the Kingdom by War offensive or defensive, or for the relief of the Subject, disturbed in the Courts of Justice by ill customs, undue execution of the Laws, oppression, &c.

From this High Court lies no appeal, the determination thereof being presumed to be the act of every particular Subject, who is either present personally, or consenting by his Assignee, suffraged by himself.

This honourable Assembly consists of two houses, Upper and Lower. The upper is made up by the Lords Spiritual and Temporal, as Archbishops, Bishops, Dukes, Marqueesses, Earls, Viscounts, Barons, no Member of that House being under the degree of a Baron; all which await the Writ of Summons, without which, no place, no vote there; and none may absent themselves after Summons without special proxy from his Majesty, whence he hath power to depute one of the said Members to give his voice for him in absence.

His Majesty, who by his Prerogative Royal hath the sole power; as of calling, so dissolving this honourable Assembly, sits in a Throne in the upper end of the House; on his right hand the Prince of *Wales*, on the left the Duke of *York*. The greatest Officers of the Kingdom, as the Lord Keeper, (who is the Speaker or mouth of the House) Treasurer, Privy-Seal, &c. have places some on the right, some on the left hand of the Throne: the form whereof is recited in the Statute of 31. *Henry* 8.

*The Manner of giving voices in
the Upper house is thus:*

The Lords Spiritual and Temporal in their *Parliamentary* Robes, the youngest Bishop reads Prayers; those being ended, the Clerk of the House readeth the Bills, (being first writ in paper;) which being once read, he that pleaseth may speak either for, or against it.

*The Manner of the Lower house is
in this sort.*

The first day each Member is called by his name, every one answering for what place he serveth ; that done, they are willed to chuse their Speaker, who, (though nominated by the Kings Majesty,) is to be a Member of that House ; their election being made, he is presented by them to the King sitting in *Parliament*, where after his Oration or Speech, (the Lord Keeper approving in behalf of the King) he petitions his Majestie in behalf of the House : First, for their priviledges from all molestations during the time of sitting. Secondly, that they may enjoy freedom of speech. Thirdly, that they may have power to correct any of their own Members that are offenders. Fourthly, to have favourable access to his Majesty upon all occasions. The Speaker, (in behalf of the House of Commons) promising regardful respect, as befitting loyal and dutiful Subjects.

The use of the Parliament

Consists in abrogating old, or making new Lawes, reforming all grievances in the Common-wealth, whether in religion or in temporal affairs, settling succession to the Crown, Grants, Subsidies, &c. and in Sum may be called the great Physitian of the Kingdom or Republick.

The Speakers place in the House of Commons.

The Speaker sits in a Chair, placed somewhat high, to be seen and heard the better of all; the Clerks of the House sit before him in a lower seat, who read such Bills as are first propounded in their House, or sent down from the Lords for in that point each House hath equal authority to propound what they think meet.

All Bills be thrice in three several dayes read and disputed on, before put to question; and so good order is used in the House, that he that intends to speak to any Bill stands up bare-headed (for no more than one speaks

at a time) speaking to the Speaker , not one to another, being against the rule of the House : and he that speaketh is to speak no more that day to the Bill he hath spoken to, to avoid spinning needlessly out of time ; and their speeches must be free from Taunts of their fellow-members that are of contrary opinions.

The Speakers office is, when a Bill is read, as briefly as he may to declare the effect thereof to the House, and to Bills first agreed on by the Lords, and sent to the Commons for assent : if they do assent, then are they return'd subscrib'd thus, *Les Communs ont assentus*: So likewise if the Lords agree to what is sent to them from the House of Commons, they subscribe, *Les Seigneurs ont assentus*: If the two Houses cannot agree (every Bill being thrice read in each House) then sometimes the Lords, sometimes the Commons, require a meeting of some of each house, whereby information may be had of each others mind, for the preservation of a good correspondence between them, after which meeting for the most part, (though not alwayes) either part agrees to the Bill in question. The

The assent or dissent of the Upper House, is each man severally by himself, and then for so many as he hath by proxy, they saying onely, content, or not content, and by the major part it is agreed to, or dashed. But in the Lower House no Member can give his voice to another by proxie; the major part being present onely maketh the assent or dissent. After a Bill is twice read there, and engrossed; (being disputed on enough, as conceived) the Speaker asketh if they will go to question; and if agreed to, holding the Bill up in his hand, saith, *As many as will have this Bill pass concerning such a matter, say Yea; and those that are against it, No:* and if it be a doubt which cry is bigger, the House is divided, the one part that agrees not to the Bill being bid to sit still; those that do, to go down with the Bill; so plurality of voices allows, or dashes. But no Bill is an Act of *Parliament*, Ordinance or Edict of Law, though both the Houses unanimously agree in it, till it hath the Royal Assent.

Touching the Royal Assent.

When Bills are passed by both the Houses, they ought to have for approbation the Royal Assent, which usually is deferred till the last day of the Sessions, but may be given at any time during the *Parliament*: touching which, it hath been a question much debated, whether the Royal Assent given to any one Bill doth not *ipso facto* conclude that present Session. The question is of great consequence, for if thereby the Session be at an end; then ought every other Bill, although passed both the Houses, to be read again three times in either House, and to have the same proceeding as it had at first, as if nothing had been formerly done therein; so must it be done of all other Acts of the House. But the first Session of the first *Parliament* of King *James*, the *House* being then desirous to have a Bill passed forthwith by the Royal Assent, which should be security to the Warden of the Fleet, touching the delivery of *Sir Thomas Sherly* out of execution, (for

(for it was then questionable whether he was subject to an action of *escape*) did agree that the giving of the Royal assent to one Bill or more did not dissolve the Sessions without some special Declaration of his Majesties pleasure to that purpose, 18. *April* 1604. And likewise in the Journal *Anno* 1. and 2. *Phil. & Maria*. 21. *Novemb.* that the King and Queen came on purpose into the Parliament-House to give their Assent to Cardinal *Poles* Bill; and upon question made, it was then resolved by the whole House, that the Session was not thereby concluded, but that they might proceed in their business notwithstanding the Royal Assent given.

At the giving of the Royal Assent, it is not requisite the King should be present in person, for by the expresse word of the Statute of 33. *Henry* the 8. *cap.* 21. that the Kings Royal Assent by his Letters Patents, under his great Seal, signed by his hand, and declared and notified in his absence to the Lords Spiritual and Temporal, and to the Commons assembled in Parliament, is, and ever was of as good strength.

strength and force, as if the King had been there in person personally present, and had assented openly and publicly to the same; according to which Statute the Royal assent was given by Commission Anno 38. H. 8. unto the Bill for the attainder of the Duke of Norfolk.

The Manner of giving the Royal Assent.

The Royal Assent is given in this sort; after some solemnities ended, the Clerk of the Crown readeth the Titles of the Bills in such order as they are in consequence: as the Title of every Bill is read, the Clerk of the Parliament pronounceth the Royal Assent, according to his instructions given him by his Majesty in that behalf: if it be a publick Bill to which the King assenteth, he answereth *Le Roy le veut*; If a private Bill be allowed by the King, the answer is, *Soit fait come il est desire*: If a publique Bill which the King forbearth to allow, *Le Roy se avisera*: To the Subsidy-Bill, *Le Roy remercie ses Loyaux*, accepts his subjects benevolence; & ainsi le veut. To

To the general Pardon.

*Les Prelates Seigneurs & Communs
en cest present Parliament assemb'les en
nom de tous vous autres subjects remer-
cient tres humblement vostre Majestie,
& prient Dieu vous doner en suite bon
ole & longe.*

The usual Form of
Summons for the
PARLIAMENT.

*The Form of the Kings Majesties
Writ to the Peers to assemble
in Parliament.*

CAROLUS &c. Charissimo con-
sanguineo suo E. Comit. D. Salut.
Quia de advisamento & assensu Con-
sistii nostri, pro quibusdam arduis argen-
tibus negotiis nos, statum & defensionem
regni nostri Anglia & Ecclesia Angli-
cane concernent. quoddam Parliamen-
tum nostrum apud Civitatem nostram
West

Westmonasterium tertio die Novembris prox. futur. teneri ordinavimus, & ibid. vobiscum ac cum Pralat. magnatibus & proceribus dict. Regni nostri colloquium habere, tractare, vobis sub fide & ligeanciis, quibus nobis tenemini, firmiter injungend. mandavimus, quod considerat. dictorum negotiorum arduitate & periculis imminentibus, cessante excusatione quacunque, dict. die & loco personaliter interfuit vobiscum, ac cum Pralatis, magnatibus & proceribus predictis, super dictis negotiis tractatur. vestrumque consilium impensur. & hoc sicut Nos & honorem Nostrium, ac salvationem & defensionem Regni & Ecclesie predictarum expeditionemque dictorum negotiorum, diligitis, nullatenus omitatis. Teste me apud Westmonasterium decimo octavo die Septembris, Anno Regni nostri 16.

The usual form of summons for the Parliament for the Commonalty, is not special, but a general Writ is directed to the Sheriff of every County or shire in England and Wales, in this form.

Rex vice. N. Salatem. Quia de advisamento & assensu Consilii nostri quibusdam arduis & urgentibus negotiis nos Statum & defensionem Regni nostri Anglia, & Eccles. Anglicana concernent. quoddam Parliamentum nostrum apud Civitatem nostram West. 17 die Martij. prox. futuro teneri ordinavimus, & ibidem cum Prelatis, Magnatibus & Proceribus dicti regni nostri colloquium habere & tractare, tibi precipimus firmiter injungentes quod facta proclamatione in prox. com. tuo post receptionem hujus brevis nostri tenendum die & loco pradieto, duos Milites gladiis cinctis, magis idoneos & discretos cum pradiet. &c. Et electionem illam in pleno com. tuo factam distinctè & apertè, sub sigillo tuo & sigillis eorum qui electioni illi interfuerunt, nobis in Cancellariam nostram ad dictum diem & locum certifies indilate. Teste me ipse, &c. vide Statut. 23. H. 6. c. 15.

The

The King to the Vicount or Sheriff greeting.

Whereas by the advice & assent of our Council, for certain arduous and urgent affairs concerning us, the State & defence of our Kingdom of England, and the Anglican Church, we have ordain'd a certain Parliament of ours to be held at our City of _____ the day of _____ next ensuing, and there to have conference, and to treat with the Prelats, Great men, and Peers of our said Kingdom; We command and strictly enjoin you, that making Proclamation at the next County Court after the receipt of this our Writ, to be holden the day and place aforesaid, you cause 2 Knights girt with swords; the most fit and discreet of the County aforesaid, and of every City of that County, 2 Citizens; of every Burrough 2 Burgesses, of the discreeter, and most sufficient, to be freely and indifferently chosen by them who shall be present at such Proclamation, according to the tenor of the Statutes in that case made and provided; And the names of the said Knights, Citizens and Burgesses so chosen, to be inserted in certain Indentures, to be then made between you and those that shall be present at such Election, whether the parties so Elected be

present, or absent, and shall make them to come at the said day and place, so that the said Knights for themselves, and for the County aforesaid, and the Citizens, and the Burgesses for themselves, and the Commonalty of the said Cities and Burroughs, may have severally from them full and sufficient power to do, and to consent to those things which then by the favour of God shall there happen to be ordain'd by the Common-Council of our said Kingdom concerning the business aforesaid, so that the business may not by any means remain undone for want of such power, or by reason of the improvident election of the aforesaid Knights, Citizens and Burgesses: But we will not in any case that you or any other Sheriff of our said Kingdom shall be elected: And at the day and place aforesaid, the said Election being made in a full County Court, you shall certifie without delay to us in our Chancery under your Seal, and the Seals of them which shall be present at that Election, sending back unto us the other part of the Indenture aforesaid affiled to these presents together with the Writ, Witness our self at Westminster.

And

And concerning those of *Wales* to be summoned to the Parliament, read the Statute thereof 27. *Hen. 8. cap. 26.* Intituled, *An Act for Laws and Justice to be ministered in Wales, in like form as it is in this Realm;* and also that other Statute made 35. *Hen. 8. cap. 11.* Intituled, *An Act for the due payment of Fees and Wages of Knights and Burgeses of the Parliaments, in Wales.* And thereof see in *Plowdens Comment.* 120. *Sir Richard Bulkleys Case,* and in *Dyer* 13.

And concerning those of the County Palatine of *Chester*, and of the City of *Chester* in this behalf, see the Statute made 34. *Hen. 8. cap. 3.*

At every County after the delivery of the Parliament-writ to the Sheriffs, Proclamation shall be made in the full County of the day and place of the Parliament, and that all men shall attend for the Election of the Knights for the same County for the Parliament. The which Knights must be resident within the same County whereof they are to be chosen, the day of the writ of summons of the Parliament, whereof every one ought to have 40 s.
of

of Freehold within the said County beyond all charges; And such who have the greatest number of the said Electors shall be returned Knights for the same County. See 7. Hen. 4. cap. 12. 1. Hen. 6. cap. 1. 8. Hen. 6. cap. 13. and 10. Hen. 6. cap. 7.

The Sheriff may examine every one of the said Electors upon the said Evangelists how much he may dispend by year, if he doubt of the value thereof, 8. Hen. 6. cap. 15.

The said Election shall be made in the full County between the hours of 8. and 9. before noon. 23. Hen. 6. cap. 15.

The said Knights shall be returned into the Chancery by Indenture, seal'd between the Sheriff and the said Electors, 8. H. 6. c. 7. 7. H. 4. c. 1. 23. H. 6. c. 6. *ut patet per breve supra.*

Every Sheriff who doth not make a true return of such Election of knights to come to the Parliament, according to the Statute in that behalf made, that is to say, the Statute 8. H. 6. c. 7. shall forfeit 100 l. to the King, and
100 l.

100l. to the knight so chosen, who shall commence his Action within three moneths after the Parliament commenced. And if he so do not, and prosecute his suit in effect and without fraud, any other man who will may have the said suit, for the said 100 l. as the Knight had, and costs of suit also shall be awarded to the said K. or any other who will sue in his behalf, 23. *Hen. 6. Cap. 15.*

No Sheriff shall be chosen for a Knight of the *Parliament* nor for a Burgesse: see the Book of Entries, 411. And at a *Parliament*, holden 38. *Henry 8.* It was admitted and accepted, that if a Burgesse of a *Parliament* be a made Mayor of a Town, or have Judicial Jurisdiction, or another is sick, That these are Causes sufficient to choose others. And so was done by the Kings Writ out of the Chancery, comprehending this matter which was in *Communi Domo Parliamenti*, 7. and 38. *Henry 8.*

In every Writ of Parliament directed to the Sheriff this Clause shall be inserted; *Electionem tuam in pleno Com. tuo factam distinctè & apertè sub Sigillo tuo & Sigillis eorum qui Electioni illi interfuerunt, nos in Cancellariam nostram ad diem & locum in brevi content. certificet indilate, Henr. 4. cap. 15.*

The Sheriff after the receipt of the Writ of Election, &c. shall deliver without fraud a sufficient Precept under the Seal of every Major, and Bailiff, or Bailiffs, where no Major is, of the City and Burrough within his County, reciting in his Precept the Writ of Parliament; Commanding them by the said Precept, if it be a City, to choose Citizens for the same City by the Citizens, and if it be a Burrough, then Burgeses, by Burgeses of the same to come to the Parliament; And that the said Major, or Bailiff, or Bailiffs, where no Major is, shall return lawfully the said Precept to the Sheriffs,

Sheriffs, and those who made the Elections, and of the Names of the said Citizens, and Burgeses, by them so chosen, 23. *Henry 6. Cap. 15.*

The Sheriff shall make a good return of his Writ, and of every return of the Major, and Bailiff, or Bailiffs, where no Major is, to him made. And if the Sheriff do contrary to this Statute made for the Election of Knights, Citizens, and Burgeses to come to the *Parliament*, he shall incur the pain of two hundred pounds to the King, and shall be imprisoned for one whole year, without Bail or Mainprize. And the Knights for the County returned, contrary to the said Ordinances, shall lose their Wages by the Statute, 8. *Henry 6. Cap. 7.* and the Sheriff shall lose one hundred pounds, to every Knight, Citizen and Burgesse, chosen in his County, to come to the *Parliament*, and not duely returned; or to any other who will sue in his default by Action of Debt,

with Costs Expended in that Case: In which suit the Defendant shall not wage Law, nor be Essoyned, *Anno 23. Henry 6. Cap. 15.*

If the Major and Bailiff, or Bailiff, or Bailiffs where no Major is, do return others than those who be chosen by the Citizens and Burgeses of the Cities and Boroughs where such Election shall be made, he shall forfeit to the King forty pounds, and so much to the Citizen or Burgess chosen to come to the *Parliament*, and not duely returned by the Major or Bailiff, or Bailiffs where no Major is, or to any other person who in default of such Citizen or Burgesse so chosen, will sue for it by Action of Debt, with Costs expended. And they shall have a Writ of Debt for the said forty pounds, in which the Defendant shall not wage his Law, nor shall be Essoyned, *23. Henr. 6. Cap. 15.*

Every

Every Knight, Citizen, or Burgesse, chosen and not returned, shall Commence his Action within three moneths next after the Commencing of the said *Parliament*. In which he must proceed effectually without fraud; And if he so do not, any other who will sue for it shall have the said Action for the said Forfeiture, and Costs in the same expended: in which the Defendant shall not wage Law, nor shall be Essoyned, *Anno 23. Hen. 6. cap. 15.*

If any Knight, Citizen, or Burgesse, that shall be returned by the Sheriff to come to the *Parliament*, be after such Return put out, and another put in his place, he that is in his place so put out, if he take upon him to be a Knight, Citizen, or Burgesse, shall forfeit to the King one hundred pounds, and so much to the Knight, Citizen, or Burgesse, returned by the Sheriff, and so afterwards put out; and the same Knight, Citizen, or Burgesse so put out shall have an Action of Debt against him so

put in his place, his Executors and Administrators, and shall Commence his Action within three Moneths after the beginning of the *Parliament*: and if he sue not as before, any other who will, shall have the said suit; in which the Defendant shall not wage his Law, nor shall be Essoyned; so that such Knights of the *Parliament* chosen, be a Knight, or such Esquire or Gentleman of the same County, who may be a Knight; and none to be such a Knight, who standeth in the Degree of a Yeoman, *Anno 23. Hen. 6. cap. 15.*

All Persons and Commonalties who shall be summoned to the *Parliament*, shall come as it hath been accustomed of the ancient time: and he that commeth not, having no reasonable excuse, shall be amerced and otherwise punished, as of ancient time hath been used, *5. R. 2. Statut. 2. cap. 4.*

And

And it appeareth to be true which *Fortescue* saith in his 18. *Cap. Fol.* 40. That Acts of *Parliament* and Statutes of *England* are not made onely by the Princes pleasure, but also by the consent of the whole Realm : So that of necessity they must procure the Weal of the whole Realm, and in no wise tend to their hinderance; and it cannot be otherwise thought, but that they are replenished with much Wit and Wisdom, seeing they are not ordained by the Advice of one Man onely, or of one hundred wise Counsellors, but of more than three hundred chosen Men; which agreeth with the ancient number of Ancient Senators of *Rome*.

No Baron, Knight, Citizen or Burgesse, who shall be chosen to come to the *Parliament*, shall depart until that *Parliament* be ended or prorogued, if he have not license of the Speaker, & of the Commons assembled in that *Parliament*; which license shall be entred in the

Book of the Clerk of the Parliament appointed for the Commons House, upon pain of losing their wages, whereofall Counties and Burroughs shall be discharged, *6. Hen. 8. Cap. 16.*

Concerning the due leavying of Knights Fees and Wages for the Attendance at the Parliament, See the Statute made *23. Henr. 6. Cap. 11.*

Knights and Burgeses for the Parliament must take the *Oath of Allegiance*, and so shall Citizens, and Barons for the five Ports for the Parliament, before they do enter into the Parliament House, *Anno 5. Eliz. Cap. 1.* and they must also take the *Oath of Supremacy*, made *7. Jacobi, Cap. 6.* Which two Oathes shall be taken before the Lord Steward for the Time being, or his Deputy, or Deputies.

Memorandum,

Memorandum, in the Statute made, *Anno* 25. *Henr.* 8. *Cap.* 19. Entituled, An Act concerning the submission of the Clergie to the Kings Majestie, is contained, That the Convocation is, and alwayes hath been and ought to be Assembled by the Kings Writ, The form whereof is thus set down by Doctor *Cowell* in his Interpreter *Verbo Proclam.* First, the King directeth his Writ to the Arch-Bishop of each Province for the Summoning of all Bishops, Deans, Archdeacons, Cathedrall and Collegiate Churches, and generally all the Clergy of his Province, after their best Discretions and Judgements; assigning to them the time and place in the said Writ: Then the Arch-Bishops proceed in their accustomed course. One Example may shew both; The Arch-Bishop of *Canterbury*; upon his Writ of Summons received, directeth his Letters to the Bishop of *London* as his Dean Provincial: First, Citing him peremptorily, and then willing;

D 5

ling him to cite in like manner all the Bishops, Deans, Arch-Deacons, Cathedrall and Collegiate Churches, and generally, all the Clergie of his Province, to the place, and against the day prefixed in the VVrit; but directeth withall, That one Proctor sent from every Cathedrall, or Collegiate Church, and two for the body of the inferiour Clergie of each Diocesse, may suffice: and by Vertue of these Letters, authentically sealed the said Bishop of *LONDON*, sendeth the like Letters severally to the Bishops of every Diocesse of the Province, citing them in like manner, and commandeth them not onely to appear, but also to admonish the said Deanes and Arch-Deacons personally to appear; and the Cathedrall and Collegiate Churches also of the common Clergie of the Diocesse, to send their Proctors at the day appointed in the VVrit: And also will them to certifie to the Arch-Bishops the names of all and every

ry one so summoned by them in a Schedule annexed to their Letters Certificatory. The Bishops proceed accordingly; and the Cathedrall and Collegiate Churches: As also the Clergie make choice of their Proctours; which done and certified to the Bishop, hee returneth all answerable to his charge, (*Cave Lector*) for the Clergie of the Convocation-House are no Part or Member of the *Parliament*, as you may see resolved by the Lord *Richard*, Lord *Windsor*, and others, in the beginning of the sixth Examination of Master *Philpot*, in the beginning of the Reign of Queen *Mary*, in Master *Foxes* Book of Martyres, *Folio* 1639. contrary to the Opinion of Doctour *Cowell*, *ubi supra*. Neverthelesse, it is Enacted by the Statute, 8. *Henry 6. Capite 1.* That all the Clergie called to the Convocation-House, by the Kings VVrit, and their Servants and Familiars shall have and fully use

use every such Liberty and Defence, in comming, abiding, and going, as the Great Men, and Commonalty of the Land (to be called to the Parliament of the King) shall have.

And because mention is here made of the Priviledges appertaining to those of the Parliament-House, take here a word or two thereof.

The Words of the Statute made the 11. Henry, 6. Cap. 11. are as followeth; The King willing to provide for ease and tranquillity of those that come to his Parliament, hath Ordained and Established, That if any Assault or Affray to be made upon any Lord Spirituall, or Temporall, Knight of the Shire, Citizen, or Burgesse, comming to the Parliament, or the Counsell of our Sovereign Lord the King, that then Proclamation shall be made in the most open place of the City or Town where the affray was

was so made, by three several dayes ,
That the party that made such affray
and assault yield himself before the
King and his Bench, within a quarter
of a year after the Proclamation so
made, if it be in the time of the Term,
or otherwise in the next day in the
time of the Term following the said
quarter. And if he so do not , that
he be attainted of the deed, and pay
to the party grieved his double dam-
mages, to be taxed at the discretion of
the Justices of the same Bench for the
time being ; or by inquest if it be
needful ; and make Fine and Ransom
at the Kings will, and if he come and
be found guilty by Inquest, examina-
tion, or otherwise, of such affray, or af-
fault, then he shall pay unto the par-
ty grieved thereby his double dam-
mages found by the Inquest, or to be
taxed by the discretion of the Justices,
and make Fine and Ransome at the
will and pleasure of our Sovereign
Lord the King.

Every

use every such Liberty and Defence, in comming, abiding, and going, as the Great Men, and Commonalty of the Land (to be called to the Parliament of the King) shall have.

And because mention is here made of the Priviledges appertaining to those of the Parliament-House, take here a word or two thereof.

The Words of the Statute made the 11. Henry, 6. Cap. 11. are as followeth ; The King willing to provide for ease and tranquillity of those that come to his Parliament, hath Ordained and Established, That if any Assault or Affray to be made upon any Lord Spirituall, or Temporall, Knight of the Shire, Citizen, or Burgesse, comming to the Parliament, or the Counsell of our Sovereign Lord the King, that then Proclamation shall be made in the most open place of the City or Town where the affray was

was so made, by three several dayes ,
That the party that made such affray
and assault yield himself before the
King and his Bench, within a quarter
of a year after the Proclamation so
made, if it be in the time of the Term,
or otherwise in the next day in the
time of the Term following the said
quarter. And if he so do not , that
he be attainted of the deed, and pay
to the party grieved his double dam-
mages, to be taxed at the discretion of
the Justices of the same Bench for the
time being ; or by inquest if it be
needful; and make Fine and Ransom
at the Kings will, and if he come and
be found guilty by Inquest, examina-
tion, or otherwise, of such affray, or af-
fault, then he shall pay unto the par-
ty grieved thereby his double dam-
mages found by the Inquest, or to be
taxed by the discretion of the Justices,
and make Fine and Ransome at the
will and pleasure of our Sovereign
Lord the King.

Every

Every Knight, Citizen, Burgeſſ, Baron of the Five Ports, or others, called in the Parliament of the King, ſhall have priviledge of the Parliament during the Sessions of Parliament, ſo that he that doth arreſt any of them during that time, ſhall be impriſoned in the Tower by the Nether Houſe of which he is, and ſhall be put to his Fine, and the Keeper alſo if he will not deliver him when the Serjeant at Arms doth come for him by the commandment of the Houſe whereof he is : See *Dyer. 60.*

The ſervants tending upon their Maſters during Parliament, who are neceſſary, and alſo ſuch Officers as be attending upon the Parliament, as the Serjeant at Arms, the Porter of the door, Clerks and ſuch like ; and in the ſame manner of their Chattels and goods neceſſary, ſo that they ſhall not be arreſted and taken by any Officer, if it be not in caſe of Felony or Treason : in the ſame manner, as the Judges and Miniſters of other Courts ſhall have for their ſervants goods and chattels neceſſary. See *Cromptons Courts, fol. 11.* But

But the Parliament doth not give priviledge *Tempore vacationis*, *Jedisse-dente curia*. See *Brooks Title Priviledge* 56. It appeareth that in the Parliament 31. *Hen. 6.* in the vacation, the Parliament being continued by Prorogation, *Thomas Thorpe* the Speaker was condemned in a thousand Marks damages by an Action of Trespasse brought against him by the Duke of *York*, and was committed to prison in execution for the same; and after when the Parliament was re-assembled, the Commons made suit to the King and Lords to have *Thorpe* their Speaker delivered for the good exploit of the Parliament: whereupon the Dukes Counsel declared the whole cause at large; whereupon the Lords demanded the opinion of the Judges, whether in that case *Thorpe* ought to be delivered out of prison by priviledge of Parliament; the Judges made this answer, that they ought not to determine the priviledge of that High Court of Parliament: But for Declarations of proceedings in Law-Courts in the case where writs of *Superfedeas* for the priviledge of the

the Parliament to be brought unto them; they answer, That if any person that is a Member of the Parliament be arrested in such case as it be not for Treason or Felony, or for surety of the Peace, or for condemnation had before the Parliament; it is used that such persons be released, and may make Attorney, so as they may have their freedom and liberty freely to attend that Parliament: Hereupon it was concluded, that *Thorpe* should still remain in prison according to the Law, notwithstanding the privilege of Parliament, and that he was the Speaker; which resolution was declared to the Commons by *Walter Moile* one of the Kings Serjeants at Law, and then the Commons were commanded in the Kings name by the Bishop of *Lincoln*, in the absence of the Archbishop of *Canterbury* then Chancellor, to chuse another Speaker.

It hath been much doubted, whether one taken in Execution during the Parliament may be set at liberty by Writ of Parliament, as is to be seen
in

in the first of *Eliz.* 4. fol. 8. a *Dyer* 60. But at this day the Law is explained in that case by the Statute made 1 *Jacob.* Cap. 19. Intituled, *An Act for new execution to be sued against any who shall hereafter be delivered out of prison by priviledge of Parliament, and for discharge of them out of whose custody such prisoners shall be delivered.*

Concerning the upper House of Parliament ; first it is observed , that thither come all Lords of the Parliament as well Spiritual as Temporal, and they are summoned by the Kings Writ also, but *Separatim*, and not by a general Writ to the Sheriff of the County, as the Commons are summoned, who are of the Lower House of the Parliament ; the form of which Writ is as followeth :

Carolus, &c. Charissimo consanguineo suo Comiti Oxford. Quia de advisamento & assensu Consilii nostri, pro quibus. arduis & urgentibus negotiis nos, stat. & defensionem regni nostri & Eccles. Anglic. concernent. quoddam Parliament

liament. nostrum apud Civitat. nostram Westmonasterium 12. die Martii, prox. futur. teneri ordinavimus, & ibidem vobiscum ac cum Prelatis, magnatibus & proceribus dicti Regni nostri colloquium habere & tractare, vobis sub fide & ligeanciis, quibus nobis tenemini, firmiter injungend. mandamus, quod considerat. dictorum negotiorum arduorum & periculis imminenti- bus, cessante excusatione quacunque dicto die & loco personaliter interfatis nobiscum, ac cum Prelatis, magnatibus & proceribus supra dictis negotiis tractare, vestrumque consilium impensur. Et hoc sicut Nos & honorem nostrum, & rempublicam, & salvationem & defensionem Regni & Ecclesie predict. expeditionemque negotiorum dictorum diligitis, nullatenus omittatis. Teste me ipso apud Westm. 18. die Januarii Anno Regni nostri, &c.

At the first day appointed by the King for the Parliament, usually the King in person doth ride thither, as it were to open the door of their authority, attended by all the Lords Spiritual and Temporal in their Parliament-
Robes;

Robes; but if the King be let *per agri-*
tudinem, or by other causes, his Maje-
 sty may command the adjournment of
 the Parliament to be held at some o-
 ther day at his pleasure; as was done
 at the first day of the Parliament,
 holden the first year of the late Queen
Eliz. as appeareth in *Dyer, Fol. 20.*
3. which Parliament was prorogued
 by Writ Patent under their entire
 great Seal and Signet, with the hand
 of the Queen; by which Book the
 printed Book of the Statutes may be
 corrected.

And the King may under his great
 Seal assign two or three of the Lords
 of the Parliament to supply his place
 in Parliament, if he be sick, or will not
 come for any other cause, *ut factum*
fuit Anno 31. Eliz. At which time
 the Archbishop of *Canterbury*, The
 Lord Treasurer of *England*, and the
 Earl of *Derby*, were Commissioners
 under the great Seal appointed and as-
 signed to represent her Majesties per-
 son in Parliament.

And they do sit one space lower
 from the Cloth of Estate in the *Parlia-*
ment-House. See *Crompt. Courts, fo. 12. a.*

By

By the Statute made *Anno 23. H.8. Cap. 21.* it is thus defined : The Assent of the King by his Letters Patents under the great Seal of *England* , and signed with his hand, and notified in his absence to the Lords of the Parliament and Commons assembled in the Higher House, is and ever was of as good force and strength as if the person of the King had been there present, and had assented openly and publickly to the same. And such Royal assent as is aforesaid shall be taken for good and effectual to every intent without any ambiguity of Custome or usage to the contrary notwithstanding.

In this Court is attending the Lord Chancellor of *England* , or the Lord Keeper of the great Seal , or some other sage man as the King shall chuse ; by whom the King doth shew his mind to the Lords. And he doth put them in remembrance of those things which are to be treated there before the Lords , who if he be no Baron, or Peer of the Realm, sitteth near the King behind the cloth of Estate ,

state, and is as the Speaker of the Upper House of Parliament.

In the 31. year of *Hen. 8. Cap. 10.* Intituled, An Act concerning placing of the Lords in the Parliament Chamber and other assemblies & conferences of Counsel, it is Enacted as followeth : *Forasmuch as in all great Councils and Congregations of men having sundry degrees in the Commonwealth, it is very requisite and convenient that an order be had and taken for the placing and setting of such persons as are bound to resort to the same ; to the intent that they knowing their places, may use the same without displeasure or let of the Council : Wherefore the Kings most Royal Majesty, alikough it appertaineth to his Prerogative Royal to give such honour, places and reputation to his Counsellors and other his subjects as shall seem best to his most excellent Majesty, He is nevertheless pleased and contented for an order to be had and taken in this his most high Court of Parliament, that it shall be Enacted by authority of the same, in manner as hereafter followeth :*

First ;

First, It is Enacted by authority aforesaid, that no person or persons, of what estate, degree or condition soever he or they be of (except onely the Kings children) shall at any time hereafter attempt or presume to sit, and have place at any side of the cloth of State, in the Parliament-Chamber, neither of th'one of the Kings Highness, nor on the other, whether the Kings Majesty be there personally present, or absent. And for as much as the Kings Majesty is justly and lawfully supreme head on earth of the Church of England, under God; and for the exercise of the said most royal dignity and Office, hath made Thomas Lord Cromwel, and Lord privie Seal, his Vicegerent, for good and due ministration of Justice to be had and used in all causes and cases touching the Ecclesiastical Jurisdiction, and for the godly reformation and redress of all Errors, Heresies, and Abuses in the same Church; It is therefore enacted by authority aforesaid, That the said Lord Cromwel, having the said Office of Vicegerent, and all other persons w^{ho} shall hereafter have the said Office of the grant of the Kings Highness, his
Heirs

Heirs and Successors, shall sit and be placed as well in this present Parliament, as in all Parliaments whatsoever hereafter to be holden, on the right side of the Parliament Chamber, and on the same form that the Archbishop of Canterbury sitteth upon, and above the said Archbishop and his Successors; and shall have place in every Parliament to assent or dissent, as other the Lords of the Parliament.

And it is enacted, that next to the said Vicegerent shall sit the Archbishops of Canterbury and York; and then next them on the same form & side the Bishop of London, and next to him on the same form and side the Bishop of Duresme, and next to him, on the same form and side, the Bishop of Winchester; and then all the other Bishops of both Provinces of Canterbury and York shall sit and be placed on the same side after their ancienties, as it hath been accustomed.

And

And forasmuch as such persons as now have, or hereafter, shall happen to have other great Offices of the Realm, that is to say, the Office of the Lord Chancellor, Lord Treasurer, Lord President of the Kings Council, the Lord Privy Seal, the Great Chamberlain of England, the Marshal of England, the Lord Admiral, the Grand Master or Lord Steward of the Kings most honourable Household, the Kings Chamberlain, and the Kings Secretary, have not heretofore been appointed and ordered for the placing and sitting in the Kings most High Court of Parliament, by reason of their Offices; It is therefore now ordered, and Enacted by authority aforesaid, that the said Lord Chancellor, Lord Treasurer, the President of the Kings Council, and the Lord Privy Seal, being of the degrees of Barons, or above, shall sit and be placed as well in this present Parliament, as in all other Parliaments hereafter to be holden, in the left hand of the Parliament Chamber, on the higher part of the form on the same side, above all Dukes (except only such as shall be

the Kings Son, the Kings Brother, the Kings Uncle, the Kings Nephew, or the Kings Brother or Sisters sons.

And it is also ordained and enacted by Authority aforesaid, That the great Chamberlain, the Constable, the Marshall, the Lord Admirall, the Grand Master or Lord Steward, and the Kings Chamberlain, shall sit and be placed after the Lord Privy Seal, in manner and form following, That is to say, every one of them shall sit and be placed above all other personages being of the same Estate or Degree that they shall happen to be of; That is to say, the Great Chamberlain first, the Constable second, the Marshall third, the Lord Admirall fourth, the Grand Master or Lord Steward fifth, and the Kings Chamberlain the sixth.

And it is also enacted by Authority aforesaid, That the Kings chief Secretary, being of the Degree of a Baron of the Parliament, shall sit and be placed above and before all other Barons, not having any of the Offices aforesaid remembred; and if he be a Bishop, that
E then

then he shall sit and be placed above all other Bishops, not having any of the Offices above remembred.

And it is also ordained and enacted by authority aforesaid, That all Dukes not afore mentioned, Marquesses, Earls, Viscounts, and Barons, not having any of the Offices aforesaid, shall sit and be placed after their ancientry, as it hath been accustomed.

And it is further enacted, that if any person or persons which at any time hereafter shall happen to have any of the Offices aforesaid, of Lord Chancellor, Lord Treasurer, Lord President of the Kings Counsel, Lord Privy Seal, or chief Secretary, shall be under the Degree of a Baron of the Parliament, by reason whereof they have no interest to give any assent or dissent in the said house: That then in every such case, such of them as shall happen to be under the said degree of a Baron, shall sit and be placed at the uppermost part of the Sacks, in the midst of the Parliament-Chamber, either there to sit upon one form, or upon the uppermost sack, the one of them above

the other in order as is above rehearsed.

Be it also enacted by authority aforesaid, that in all tryals of Treason by Peers of this Realm, If any of the Peers that shall be called hereafter to be triers of such Treason, shall happen to have any of the Offices aforesaid, that then they having such Offices, shall sit and be placed according to their Offices, above all the other Peers that shall be called to such trialls, in manner and form as is above mentioned and rehearsed.

And it is also enacted by authority aforesaid, That as well in all Parliaments, as in the Star-Chamber, and in all other Assemblies, and conferences of Counsel, The Lord Chancellor, the Lord Treasurer, the Lord President, the Lord Privy Seal, the Great Chamberlain, the Constable, the Marshal, the Lord Admiral, the grand Master or Lord Steward, the Kings Chamberlain, and the Kings chief Secretary, shall sit and be placed in such order and form as is above rehearsed, and not in any other place, by authority of this present Act.

And in Sir *Edw. Cooke* 11. part. fol. 1.
The Case concerning priority of place
in the upper House of *Parliament* was
as followeth, at the *Parliament* held
the 30. *Eliz.* The Case was thus:

Thomas Laware Knight, Lord *Laware*, son and heir of *William*, son and heir of *George*, brother and heir of *Thomas*, Son and Heir of *Thomas* Lord *Laware*, exhibited his Petition to the Queen to this effect; That whereas *Thomas* the Great-grandfather was called to *Parliament* by Writ of Summons, 3. *Hen.* 8. and afterwards this *Thomas* the Great-grandfather dieth; after whose death *Thomas* his son was called to divers *Parliaments* by Writ of Summons; And afterwards by Act of *Parliament* 3. *E.* 6. for divers causes in the said Act mentioned, it was enacted, That the said *William* during his life should be disabled to claim and enjoy any dignity or superiority in any right, Estate, &c. by descent, remainder, or otherwise. And afterwards the said *Thomas* the son of *Thomas* dieth; after whose death the said *William* being disabled was not called to any *Parlia-*

ment by Writ of Summons, till Queen *Elizabeth* called him to *Parliament* by Writ of Summons, and sits as youngest Lord of the *Parliament*: And afterwards he dieth, and now the said *Thomas* his son being cal'd to *Parliament* by Writ of Summons, sueth to the Queen that he may have place in *Parliament* of his Great-grandfather (*that is to say*) between the Lord *Berkley* & the Lord *Willoughby* of *Eresby*; And the said Petition was indorsed in these words: *Her Majesty hath commanded me to signify to your good Lordships, that upon the humble suit of the Lord Laware, She is pleased that the matter shall be considered and determined in the House.*

Which Petition being read in the upper house of *Parliament*, the Consideration of this was referred and committed to the Lord *Burley* Lord Treasurer of *England*, and divers other Committees, who at his Chamber at *Whitehall* heard the learned Counsel on both sides, in the presence of the two chief Justices, and divers other Justices: And two Objections were made against the Lord *Laware*; First, insomuch that his Father was disabled.

by Act of *Parliament* to claim the Dignity : The Petitioner may not convey by him who was disabled, as Heir to his Great grandfather, and by consequence he may not have the place of his Great-grandfather.

But it was resolved by all the Judges, That there was a difference between a Personary and a Temporary disability, and absolute perpetual disability : As whereas one is attainted of Treason or Felony, this is absolute and perpetual disability by corruption of blood, for any of his posterity to claim any hereditament in Fee simple, either as Heir to him, or any other: but disability by *Parliament* without any Attainder, to claim the Dignity for his life that is personal disability for his life onely ; and his Heirs after his death may claim as Heir to him, or any Ancestor to him, or any other Ancestor above him. The second Objection is, that the said *William* hath accepted new Creation of the Queen ; which Dignity newly gain'd descendeth to the Petitioner, which may not wave ; and for that the Petitioner may not have other place than his father had.

To

To this it was answered and resolved, that the acceptance of a new Creation by the said *William* may not hurt the Petitioner, because the said *William* was at that time disabled, and in truth he was no *Baron*, but onely an Esquire; so that when the old and new dignity descended together, the old shall be preferred; which resolution was well approved by all the Lords Committees, which was accordingly reported to all the Lords of the Parliament, and allowed by them all; whereupon it was ordered by the Lords, that the Queen should be acquainted with this by the Lord Keeper; which was done accordingly.

Whereupon at the said *Parliament*, the Lord *Lamare* in his *Parliament* Robes, was by the Lord *Zouch*, supplying the place of the Lord *Wilmingtonby*, within age at that time, and the Lord *Berkley* also in his Robes, brought into the House, and placed in his place (that is to say) next after the Lord *Berkley*; Garter King at Arms attending upon him, and doing his office.

In the upper House of *Parliament* do sit the Justices upon sacks of Wooll, *in medio Camera*; who are called thither by the Kings Writ, *quod personaliter interfuitis nobiscum ac cum ceteris de consilio nostro predictis negotiis tractat. vestrumque consilium impensur.* And this *negotia* be *Ardua & urgentia negotia Regni, &c.* And their Oath amongst other things is, that they shall counsel the King truly in his business; but they have no voice among the Lords.

If a Writ of Error be brought in *Parliament* upon a Judgement given in *Kings Bench*, the Lords of the higher House onely, without the Commons, are to examine the Errors; and that is by the Advice and Counsel of the Judges, who are to inform them what the Law is, and to direct them in their judgement; and if judgement be reversed, then commandment is to be given to the Lord Chancellor to do Execution accordingly. And so was done in the 7. of R. 2. in a Writ brought in *Parliament* by the Dean and Chapter of *Litchfield*, against the Prior and Covent of *Newport-Pannell*,

as appeareth by the Record. And if the judgment be affirmed, then the Court of K. Bench are to proceed to Execution of the judgment, as appears in *Hoverdewes Case*, 1, *H. 7. Fel. 19.*

But it is to be noted, that in all such Writs of Errors, the Lords are to proceed according to the Law; and for their judgment therein, they are informed and guided by the Judges, and do not follow their own Opinions or discretions. See *Egertons post-nati*, fol. 23.

There do also sit the Secretaries of Estate, who are to answer to such Letters or things passed in the Council whereof they have the keeping; and with them the Master of the Rolls: But they have no voice in *Parliament*, if they be not of the degree of a Baron.

Note by *Kirby*, Clerk of the Rolls of the *Parliament*, It is thus in the Books of the Law, the 33. *H. 6. c. 87.* If a Bill come first to the Commons, and they do pass it, then the use is to inrolle it in this form, *Soyt bayle à Seigneures*: And then if the Lords nor K. do not alter the Bill, then it shall be

inrolled by the Clerk of the *Parliament*, and if the Bill pass, then it shall be inrolled; but if it be a particular Bill, then it shall be filed upon *filaces*, and that shall suffice, unless the party whom it particularly concerneth will sue to have it inrolled, that it may be inrolled to be sure.

All the priviledges which do belong to those of the Commons House of *Parliament*, *à fortiori* do appertain to all the Lords of the Upper House; for their persons are not onely free from arrests during the *Parliament*, but during their lives; nevertheless the Original cause is by reason they have place and voice in *Parliament*: And this is manifest by expresse Authorities grounded upon excellent Reasons in the Book of Law.

And if a Baron, Viscount, Earl, Marquess or Duke of *England* bring any Action real or personal, and the defendant pleadeth in abatement of the Writ, That he is no Baron, Viscount, Earl, &c. and thereupon the Demandant or Plaintiff pleadeth in abatement of the Writ, and taketh issue; This issue shall not be tried by

by a Jury, but by the Records of the *Parliaments*, whether he or his Ancestors, whose Heir he is, were called to serve there as a Peer, or one of the Nobility of the Realm. See Sir *Edward Cooke's* *part. 53. & 7. part. Fol. 17. a.*

In the ancient *Britains* and *Saxon* Kings dayes, the Archbishops and Bishops were called to their *Parliaments* or other Assemblies of State; which was done not so much in respect of their Tenures, for in those dayes all their Tenures were *Franckish Almonage*; but especially, because the Laws and Counsels of men were then most currant and commendable, and had a more blessed issue and success, when they were grounded upon the fear of God, the root and beginning of Wisdom. And therefore our wise and Religious Ancestors called thither those chief and principal persons of the Clergy, who by their place and profession, by their Gravity, Learning and Wisdome might best advise them what was the Law of God, his acceptable will and pleasure; that they might from their humane Laws answerable, or at the least not contrary

trary or repugnant thereunto. Nevertheless, shortly after the *Norman Conquest*, the Conqueror altered the Tenure of the Bishopricks, not without some complaint and grief of the Clergy, as it is mentioned in *Matthew Paris, Anno 1070.*

And in the Constitutions of *Clarendon*, in the time of *Henry 2. Anno 1164.* It is expressed in the eleventh Article.

Thereby we see the presence of the Bishops in *Parliament*, in respect of their Baronies, *quousque perveniat ad diminutionem, &c.* for so even unto our times, when question is had of the attainder of any Peer, or other in *Parliament*, the Archbishops and Bishops depart the higher House, and do make their Proctors; for by the Decrees of the Church they may not be Judges of life and death. Ever since the Conquest the Archbishops & Bishops have no title to have place and voice in *Parliament*, but only in respect of their Temporal Baronies.

And it is to be observed, that although of later times the use & manner of penning of Stat. is, that it is enacted
by

by the Lords Spiritual and Temporal, and the Commons in the same assembled; yet the ancient form was not so, which you may see exemplified in Sir *Edw. Cokes* 8. part, f l. 19.

And good Acts of Parliament may be made, though the Archbishops and Bishops would not consent thereunto; for a Statute was made *Anno* 1196 by the King, the Barons and the Commons (*Clero exclus.*) and this was at a Parliament holden at Saint *Edmundsbury*, in the reign of *E. 1.* as it is reported by *Jenel* Bishop of *Salisbury* against *Harding*, fol. 620. And in the Province of *Mirton*, the time of *H. 8.* a matter was moved of Bastardy, touching the legitimization of Bastards born before marriage; where it is said, That the Statute did pass intirely with the Lords temporal, against the wills of the Lords spiritual: which Statute is in the Books in the 20. year of *H. 8.* 3. c. 9.

And in 11. R. 2. c. 3. It is enacted, that the appeals, pursuits, accuséments, processes, judgments & executions made & given in this present Parliament be affirm'd & established, as a thing duly made.

made for the weal and profit of the King our Sovereign Lord, and of all the Realm, notwithstanding that the Lords Spiritual and their Procurators did absent themselves out of the Parliament the time of the said judgment given, for the honesty and salvation of their estates, as it is contained in a protestation made by the Lords Spiritual and their Procurators delivered in this present Parliament.

See *Ke bancies Book fol. 184.* in the 7. H. 8. The Justices did say, that our Sovereign Lord the King may well hold his Parliament by him and his Temporal Lords, and by the Commons also, without the Spiritual Lords; for the Spiritual Lords have not any place in the Parliament-Chamber by reason of their Spiritualties, but onely by reason of their Temporal possessions.

The Sovereign power of this High Court of Parliament is this; That albeit the Kings Majesty hath many great priviledges and prerogatives, yet many things there are not effectual in Law, to pass under the great Seal by the Kings Charter, without Parlia-

liament; as upon this point it was resolved by all the Judges in the Princes Case, That the Dukedom of Cornwall, &c. did not, nor could pass from E. 3. by his Charter made in Parliament, That his Son and Heir apparent, and to his Heirs in form, as it was intended and made in *Anno 11.* of his reign. But of necessity it was, and so was done by authority of Parliament; which Case is notable and worth the reading: See Sir *Edm. Cokes* 8. part. fol. and his 7. part fol. 7. a The King by his Letters Patents may make a denizen, but cannot naturalize him to all purposes, as an Act of *Parliament* may do; for the Kings Charter cannot make any hereditabile in this Case that by the common Laws cannot inherit. And herewith agreeth the 36. of H. 8. *Denizon Brook.*

Bracton in the beginning of his second Book saith, *Nihil aliud potest Rex in terris, cum sit Dei minister & vicarius, quàm quod de jure potest*: and a little after, *Itaque potestas sua est Juris non injuria; & sicut sit author Juris,*
non

non debet inde injuriarum nasci occasio unde jura nascantur.

And it appeareth in *Fitzherbert's Natura Brevium* 222. in the Writ *ad quam damnum*, that every grant of the King or gift hath his condition expressed or implied, as by the Law annexed to it; *Itaque quod per donationem illam patria magis solito non oneretur seu gravetur.*

And therefore it was resolved by all the Judges 4. *Facibi*, that they who dig for Salt-peter, may not dig within the Mansion-house of any subject, without his assent, for the manifest inconveniences that thereby may grow to the owner of the house. See Sir *Ed. Coke* II. part. 82.

Also the Commission to be made, the purveyers for Timber for the Kings use, yet they cannot by that authority take Timber-trees growing upon any mans Freehold: for that is prohibited by *Magna Charta* cap. 21. *Nos nec Ballivi nostri nec alii capiemus boscum alienum ad castra vel ad alia agenda nostra, nisi per voluntatem cujus boscus ille fuerit.*

A Commission was awarded to
take

take singing-boyes in Cathedral-Churches, or in other places where such are instructed, for the furnishing of the Kings Chappel; these general words by construction shall have a reasonable understanding, that is to say, such children as be taught to sing, thereby to acquire or get their livings, such may be taken for the Kings service; but the son of a Gentleman, or any other who is taught to sing for his recreation, ornament, or delight, may not be taken against his will, or against the will of his parents or friends; and so it was resolved by all the Judges and whole Court of Star-Chamber, 43. *Eliz.*

If a man be attainted of Felony or Treason, by Verdict, Outlary, Confession, &c. his blood is corrupted: which is a perpetual and absolute disability for him or his posterity to claim any hereditament in Fee-simple, either as heir to him, or any Ancestor *PARAMOUNT* him; and he shall not be restored to his blood without Parliament: and the King may give to any attainted person his life, by this Charter of
Par-

Parliament. See *Stamfords Pleas*, 195. For the King cannot alter the Common Law, or the general customes of the Realm, such as the descent of *Gavelkind*, *Burrough English*, or such like, without *Parliament.* See *Brooks Prerogative* 15. & 11. H. 4. c. 73.

And it is set down for a rule, That if a King have a Kingdom by descent, there seeing by the Law of that Kingdom he doth inherit that Kingdom, he cannot change those Laws of himself, without consent of *Parliament.*

Fortescu also saith in his 9. cap. fol. 25. 5. If the power of the King over his subjects were royal onely, and not politick, then he might change the Laws of the Realm, and charge his subjects with Tallages and other burdens without their consent. And that such is the dominion the Civil Law purports, when they say, *Quod Principi placuit legis habet vigorem.* But by the Laws of this Kingdom the King cannot by his Proclamation alter the Law; but the King may make Proclamation that he shall incur the indignation of his Majesty

sty that withstandeth it. And by his absolute authoritie, the King may commit any one to prison during his pleasure; see *Stamford* 72. But the penaltie of not obtaining his proclamation, may not be upon pain of forfeiture of his Goods, his Lands, or his Life, without *Parliament*. See *Cromptons Courts* 14. 4. & 16. 6. *Sed omnis non capit hoc verbum*; for they of another profession in Law say, that of these two one must needs be true, that either the King is above the *Parliament*, that is, the positive Law of the Kingdom; or else that he is an absolute King, *Ar. st. lib. Pliet. cap. 16*. And therefore though it be a merciful policy, and also a politick mercy, not alterable without great peril, and to make Laws by the consent of the whole Realm, because no one partie shall have cause to complain of a partialitie; yet simply to bind the King to or by those Laws, were repugnant to the nature and constitution of an absolute Monarchy.

In some special cases there sometimes may be liking of subjects without
out

out land of possession, as in the government which *Moses* had over the children of *Israe* in the Wilderness, and in the case which Sir *Job. Popham*, the late Lord chief Justice, did put in the Parliament; If a King and his subjects be driven out of his Kingdom by his Enemies, yet notwithstanding he continueth still King over his subjects, and they still are bound to him by their bonds of allegiance, where-soever they be: but he cannot be a King without subjects, for that were *Imperium imbellum, & Rex & subditi sunt relativa.*

I believe *Solomon*, that saith, *Per me reges regnant, & Principes iusta decernunt*; and I make no doubt, but as God ordained Kings, and hath given Laws to Kings themselves, so he hath authorized and given power to Kings to give Laws to their subjects; and so Kings did first make Laws, and then ruled by their Laws, and altered and changed their Laws from time to time as they saw occasion, for the good of themselves and of their Subjects.

By the premisses it appeareth, that
Acts

Acts of Parliament and Statutes are made in this High Court of Parliament by the King, with the consent of the Commons, or by the greater part of them; for so saith *Littleton*, 15 E. 4. fol. 2. a.

In the Parliament, if the greater part of the Knights of the Shire do assent to the making of an Act of Parliament, and the lesser part will not agree to it, yet this is a good Act or Statute to last *in perpetuum*: and that the Law of *Majoris partis* is so in all Counsels, Elections, &c. both by the rules of the Common law and the Civil.

In this Court of Parliament they do make new positive Laws or Statutes, and sometimes they inlarge some of them as unto them seemeth good: and it is good counsel, that in making of laws, *quoad ejus fieri possit, quam p'urima legibus definiantur, quam paucissima vero Judicis arbitrio relinquuntur*; yet forsomuch as every considerable circumstance cannot be foreseen at the time of the making of the Law, for, *rerum progressus*
est.

*offendunt multa quæ in initio præcave-
ri seu prævideri non possunt.* Therefore
by the very intent of the makers of
the Statute, they do many times leave
to be supplied by the discretion of the
executioner of the Law that thing
which was not conveniently com-
prehended before hand by the wise-
dom of the Authors of the same:
for the expounding of the Laws doth
ordinarily belong to the reverend Jud-
ges, and in case of greatest difficulty
of importance to the High Court of
Parliament. See *Plowdens Commen-
taries*, fol. 363. a. 364, & 365.

And the Judges do say, that they
may not make any interpretation a-
gainst the expresse words of the Sta-
tute, where the intent of the Makers
of the law doth appear to the contra-
ry, and where no inconvenience by the
Statute shall ensue; for in such cases
A verbis legum non est recedendum.

But to exemplifie all the several
kinds and forms of penning them,
and the words of them taken and
construed, sometimes by execution,
sometimes by restriction, sometimes
by implication, sometimes by disjun-
ction,

ction, sometimes a disjunctive for a copulative, sometimes a copulative for a disjunctive, the present tense for the future, the future for the present; sometimes by equity out of the reach of the words, sometimes taken in a contrary sense, sometimes singularly, as *continens pro contento*, and such like, will ask a volume by it self, and in my opinion is not incident to this Discourse of the *Jurisdiction of the High Court of Parliament.*

ANCIENT



ANCIENT
CUSTOMES
OF
ENGLAND.

Being desirous for my own particular satisfaction to search & inquire after revered Antiquity, it was my hap to light on an old Manuscript, which although in sound is *Saxon*-like, yet in some things it favours of the *Danish* matters, and of the ancient *British* Laws under the Rule and Government of the *Danes*: which writing writ in the *Saxon* tongue, I have translated into *English* word for word, according to

to the true sense and meaning thereof.

IT was sometimes in the English Laws, that the People and the Laws were in Reputation: and then were the wisest of the People Worshipworthy, each in his degree, Lord and Chorle, Theyne and Undertheyne. And if a Chorle so thrived that he had full five hides of his own Land, a Church and a Kitchen, a Bell house and a Gate, a seat and several offices in the Kings Hall; then was he thenceforth the Theyns right worthy. And if a Theyn so thrived that he served the King, and on his message, or journey rode in his houshold; if then he had a Theyn that him followed, who to the Kings expedition five hide had, and in the Kings Pallace his Lord serv'd, and there with his errand had gone to the King, he might afterward with his fore Oath his Lords part play at any need. And if an
F Theyn

Theyn so thrived, that he became an Earl, then was he right forth an Earl right worthy. And if a Merchant so thrived that he passed thrise over the wide Sea of his own craft, he was thenceforth the Theyns right worthy: And if a Scholar so thrived through learning, that he had degree, and served Christ, he was thenceforth of dignity and peace so much worthy as thereto belonged, unless he forfeited so, that he the use of his dignity might be taken from him.

These ruines of Antiquity make shew of a perpetuity of Nobility, even from the beginning of this Island. But times are changed and we in them also. For King *Edward* the Confessor, last of the *Saxon* blood, coming out of *Normandy*, bringing in then the title of *Baron*, the *Thyn* from that time began to grow out of use; so as at this day men remember not so much as the names of them. And in process of time the name of *Baronage* be-

began to be both in dignity and power so magnificent above the rest, as that in the name of the Baronage of *England* all the Nobility of the Land seem'd to be comprehended. As for Dukes, they were (as it were) fetcht from long exile, and again renew'd by King *Edward* the third. And Marquesses and Vicounts were altogether brought in by King *Richard* the Second, and King *Henry* the Sixth.

But our Kings descended of the *Nor-man* blood, together with the Crown of the Kingdom, granted an hereditary and successory perpetuity unto honorable titles, such I mean as are the titles of Earldom, and Baronies, without any difference of Sex at all; which thing I thought good to make manifest by the examples of the more ancient times. In the reckning up whereof, that I may better acquit and discharge my self, I shall in the first place desire the Reader to observe three things; First, concerning the disposition and inclination of our K. in the creating of the Nobility. Secondly, of the custome of transferring of Honors & dignities

by Families. And Thirdly, of the force of time, and the change and alteration of things. For why, our Kings (who in their Kingdoms bear alone the absolute rule and sway) are with us the efficient causes of all Political Nobility. The titles of named Nobility by our Custome have this natural and common together with the Crown it self, that the Heirs males fayling, they devolve unto the women, except in the first Charters it be in expresse words otherwise provided; and yet so that regard is alwayes to be had of the time, which is every where wont to bear sway in the formality of things.

In this manner (*Harold* being overcome) *William* the first King and Conqueror having obtained the Sovereignty, according to his pleasure bestowed Dignities and Honours upon his companions and others; some of them so connext and conjoyn'd unto the Fees themselves, that yet to this day the possessors thereof may seem to be innobled even with the possession of the places onely: as our Bishops at this day, by reason of the Baronies joyned unto their Bishopricks, enjoy the

Title

Title and Preeminence of Barons in the highest Assemblies of the Kingdom in *Parliament* : he gave and granted to others Dignities and Honours, together with the Lands and Fees themselves. He gave to *Hugh Lupus* his Kinsman (a *Norman*) the Earldom of *Chester*, *Ad conquirendum & tenendum sibi & Hæredibus, adeo liberè per gladium, sicut ipse Rex tenuit Angliam per Coronam.* To *Hanus Rufus* (then Earl of *Britain* in *France*) and his Heirs the Earldom of *Richmond*, *Ita liberè & honorifice, ut eundem Edwinus Comes antea tenuerat.* And the Earldom of *Arundell* (which *Harold* possessed) he granted with a Fee unto *Roger of Montgomery*. The first two of which Honours (the Heirs male sayling) by Women passed unto other Families: But the later Earldom, *Robert* the son of *Roger* being attainted of Treason returned unto King *Henry* the First, who gave the same in Dowry unto Queen *Adeliza* his Wife. But the Succeeding Kings more sparingly bestowed such Dignities to be holden of them in Fee, granting for the better and more honourable

by Families. And Thirdly, of the force of time, and the change and alteration of things. For why, our Kings (who in their Kingdoms bear alone the absolute rule and sway) are with us the efficient causes of all Political Nobility. The titles of named Nobility by our Custome have this natural and common together with the Crown it self, that the Heirs males sayling, they devolve unto the women, except in the first Charters it be in expresse words otherwise provided; and yet so that regard is alwayes to be had of the time, which is every where wont to bear sway in the formality of things.

In this manner (*Harold* being overcome) *William* the first King and Conqueror having obtained the Sovereignty, according to his pleasure bestowed Dignities and Honours upon his companions and others; some of them so connext and conjoyn'd unto the Fees themselves, that yet to this day the possessors thereof may seem to be innobled even with the possession of the places onely: as our Bishops at this day, by reason of the Baronies joyned unto their Bishopricks, enjoy the
Title

Title and Preeminence of Barons in the highest Assemblies of the Kingdom in *Parliament* : he gave and granted to others Dignities and Honours, together with the Lands and Fees themselves. He gave to *Hugh Lupus* his Kinsman (a *Norman*) the Earldom of *Chester*, *Ad conquirendum & tenendum sibi & Hæredibus, adeo liberè per gladium, sicut ipse Rex tenuit Angliam per Coronam.* To *Hanus Rufus* (then Earl of Britain in France) and his Heirs the Earldom of *Richmond*, *Ita liberè & honorifice, ut eundem Edwinus Comes antea tenuerat.* And the Earldom of *Arundell* (which *Harold* possessed) he granted with a Fee unto *Roger of Montgomery*. The first two of which Honours (the Heirs male sayling) by Women passed unto other Families: But the later Earldom, *Robert* the son of *Roger* being attainted of Treason returned unto King *Henry* the First, who gave the same in Dowry unto Queen *Adeliza* his Wife. But the Succeeding Kings more sparingly bestowed such Dignities to be holden of them in Fee, granting for the better and more honourable

maintenance of their stock and honor, the third part of the Pleas of the County (as they term it) which they in their Charters call *Tertium denarium* or the third penny : so that he who received the third penny of any Province, was called Earl of the same ; and so by custom the Women , the Heirs male failing.

And if any Earl or Baron dying without sons had many Women his heirs, howsoever order was taken either by way of Covenant, or partition, concerning the lands and possessions, according to the common laws of the kingdom, yet the dignity & honor (a thing of it self indivisible) was still left to be disposed of according to the Kings pleasure, who in bestowing thereof usually respected the Prerogative of birth: by which right, *K. Hen.* the third after the death of *John* the Scot, dead without issue (other Lands and revenues being by agreement given to his three sisters) united the Earldom of *Chester* with the honour thereof unto the Crown. This is manifest in the Earldom of *Arundel*, (which after *Robert Belisme* son to the aforesaid *Roger*

Moun-

Montgomery, driven out by *Henry* the first) King *Henry* the second bestowed upon *William* of *A'line*, Qu. *Adeliza* his Mothers husband, and by a new Charter confirm'd it in fee, together with the Inheritance to him and his Heirs, with the third Pleas of *Sussex*, whereof he created him Earl. But *Hugh* the great Nephew of this *William* the first, being dead without issue, all the Earldom was divided among his four sisters; whose dignity and honour for all that, together with the Castle of *Arundel*, was by *Edward* the first at length given to *Richard Fitz-Alan* (the Nephews Son to *John Fitz-Alan*, and *Isabel* the second of the aforefaid sisters.)

I will now pass from *Henry* the third, to *Edward* the first his Son, there being for a time great dissention betwixt him and certain of his Nobility, viz. *Gilbert* of *Clare* Earl of *Hartford* and of *Glocester*, *Humphrey* of *Bohun*, Earl of *Hereford* and *Sussex*, and Constable of *England*; and *Roger Bigod* Earl of *Norfolke*, Marshall of the Kingdom: and that all those Noble men at length had lost their Earl-

doms and offices, they being reconcil'd to the King; afterward they again by new Charters received the same in this manner: The first of them to himself & *Joan* his wife the same K. daughter, his second wife, for term of both their lives; and to the children to be by both of them begotten (his two daughters by his first wife being excluded.) This *Joane* (called *Joane of Acon*) bare unto her husband *Gilbert* a Son called also *Gilbert*; but she the second time secretly married unto one *Radulph* of *Mont Hermeri* (without the K. her fathers knowledge) and in her own right made the same *Radulph* Earl so long as she lived: but she being dead, *Gilbert* her Son by the aforesaid *Gilbert* succeeded again into the Earldom, *Radulph* his father in law being yet alive. In the same manner he restored to the aforesaid *Humphrey* of *Bokun* his Earldom and Constableship, unto whom he also gave in marriage *Elizabeth* another of his daughters, widow to *John* Earl of *Holland*: and to the third he restored the Earldom of *Norfolk* and the Office of Marshal, with the yearly increase of a thousand Marks, upon condition if the

the heirs male of his body to be begotten failed, both should return again to the King. At length this *Roger* died without issue, in the xxxv. year of him the said *Edward* the first, viz. in the last year of his Raign: and King *Edward* his Son, the second of that name, both by a new Creation and Charter gave the Earldom and the Marshallship to *Thomas* of *Brotherton*, and his heir male.

These things I have propounded; thereby to shew how according to the diverse Dispositions of Princes, and change of Times, it hath by little and little varied in the first bestowing of Dignities and Honours: Of which thing, that new Law, and to them of Ancient time unknown, made by King *Edward* the first, seemeth afterwards to be of no small moment, whereby, he favouring certain private men, more careful of their own surname, then of their Posterity, it was thought good by him to decree to make Fees to belong to men only. That law which I would in latine call *Gentilitium Municipale*, & which the Lawyers commonly call *Fus taliatum*,

and *Talliable*, or the Law of cutting off, for that it cutteth off Successions before generall, and restraineth them to the particular heirs of Families; which seems to have given an occasion of change in the giving and bestowing of dignities and honors. For ever since that time, in the Creating of any new Earl, it is begun to be altered by express words in all Charters, provided, that it shall be but for term of life only, or descend unto the heirs males alone, the women being quite excluded. And for this I need not examples to prove; for why, the thing it self proveth the same. But the force and efficacy of this Law of Entail (or of cutting off) I have thought good thus in few words to declare.

And what I have said concerning Earls, the same may be said also of Barons created by Charters; but in Barons created by Rescripts, or Writs of Summons, yet resting upon most ancient custom not so.

For in them (one only excepted, sent forth to *Henry Bromflet*, wherein it was provided him, that same *Hen.* and his heirs male of his body lawfully begotten

gotten only to be Barons of *Wesey* women, the heirs male failing, were not in ancient time forbidden or imbarred, but that they might be accounted, and by name stiled Honourable, with the preeminence of the dignity and calling of Barons: and after they had born a child according to the ancient favour of our Lawes, (and the custom of the Kingdom) graced their Husbands also with the same honour, and with the same by Inheritance ennobled their Children, yea without the possessions of those places from whence the name of such dignities and honors may seem first to have risen. For Fees and Local possessions circumscribed by the Law, are translated and carried from one family unto another, and usually enrich their Lords and owners, the possessors thereof, but yet of themselves neither bring, nor take away Nobility, either Dative or Native. By example to manifest these things were but needles, and of little consequence; for why, all the most ancient Baronies, and the more ancient sort of the Barons at this day, are in this point on my side: and if any shall object against me in this point,

unto

unto him I will oppose either the force of time, or the carelesse and lack of looking unto. But customs are still like themselves, nor must we detract from the authority of Kings, who although they have such supereminent and undeterminate prerogatives, as that they may seem sometimes to have of favour granted some things beside the Law, yet it shall not appear them to have done, or yet suffered to have been done, any thing contrary to the custom of Stocks and Families; so sometimes they not regarding the solemnities of Ceremonies and Charters, have only by their becks (that I may so say) suffered dignities and honours to be transferred, as in *Ranulph Blundevill* Earl of *Chester* and of *Lincoln*, to be seen, for the Earldom of *Chester* he permitted after the manner to descend to *John the Scot* his Nephew by *Maudd* the elder of his Sisters: But the Earldom of *Lincoln* (the King thereunto consenting) he yet alive delivered unto *Hawisa* another of his Sisters then married to *Robert Quincy*, by his Deed in the seventh year of *Henry III.*

These

These things I say were of old and ancient time, but at this day not so; for such is the force of time, and change in altering the forms of things, as that in eating out of the old bringeth still in new: so unto Earls, whom we said in ancient time to have been rewarded with the third peny of the Province whereof they were Earls, to maintain their honour and dignity, a certain sum of money is at this day yearly paid them out of the Exchequer, and they the Titles of such places, as wherein they have no jurisdiction, administration, or profit at all. Barons also, who, as the Fathers and Senators in ancient times among the *Romans* were chosen by their *Suffragania*, were in like manner wont to be esteemed and valued by Knights fees; for why, he which had and possessed thirteen Knights fees, and a little more, was to be accounted among the Barons, & are now more seldom times chosen for their vertue, then great wealth, and large possessions.

Neither is there any let, but that a man may hold and still retain the name and title of a Barony, the head
of

of which Barony (as they term it) he hath afterward sold or alienated to some other common person.

In brief, our Kings Royal Majesty is always like it self, constant and the same, which having regard to the virtue, stock, wealth, and substance of any man (whereby he may with his counsels service profit the Commonwealth) may in every place freely give and bestow dignities and honours, sometimes chusing no more Barons than one out of one and the same family; the custome of the succession of the former and more ancient Baron, being still kept whole, and not in any hurt; as we see *Edward* the sixt wisely to have done in the family of the *Willoughbies* of *Ersby*, brought forth also another Barony of *Parham*. Wherefore we acknowledge our Kings to be the fountains of Political Nobility, and unto whom we may with thanks refer all the degrees of honours and dignities; wherefore I may not without cause seem to rejoyce, on the behalf of our Nobility of Great *Britain*, which hath had alwayes *K.* themselves Authors, Patrons, Governors and Defenders

ders thereof; that when Lands, Fees & Possessions, subject to Covenants or agreements, are still tossed & turmoil'd with the storms of the judicial Courts, and of the Common Law, it is onely unto the Kings themselves beholding, and resteth upon Heroical orders and institutions proper and familiar unto it self, so that,

*Per titulos numerentur avi, semperque
renata*

Nobilitate virent, & prolem fata sequantur,

Continuum propria servantia lege tenent.

By Titles great mens Ancestors are known, the posterity of whom enjoy the same to their flourishing and everlasting fame.

William the Conqueror, after the death of *Harold* having confirm'd the Kingdom to himself, laid these foundations of ancient and worthy Nobility, which afterwards by his successors, according to the divers occurrents and occasions, by little and little became at length in the reign of
King

King *Henry*, the third, and *Edward* the first, to appear a goodly and stately building, who having vanquished the *Welsh-men*, and contending with the *Scots* bordering upon them, for Principality and Sovereignty, entreating of all things concerning the Commonwealth with the three States of the Kingdom. (which consisteth of the Nobility, the Clergy, and Commonalty) they themselves in their Royal Majesty sitting in *Parliaments*, appointed unto every man a preeminence, according to the place of his dignity; from whom especially all the Nobility of our age may seem to derive the divers and appointed degrees of dignities and honours.

Now to abbreviate much that might be writ in the continuance of this Discourse, I shall desire to straiten my purpose to some handsome conclusion, by the observation of the degrees and sitting of our *English* Nobility in the *Parliament-Chamber*, out of the Statute of the 31. of King *Henry* the Eight, who of his

his Princely wisdom, with the full assent of the whole *Parliament*, caused a particular Act to be made for the placing of the Nobility in the Upper House of *Parliament*; the effect whereof I have here recited:

That forasmuch as in all great Assemblies and Congregations of men having degrees and Offices in the Commonwealth, it was thought fit and convenient that order should be taken for the placing and sitting of such persons as are bound to resort to the same, to the intent that they knowing their places, might use the same without displeasure, the places of which great Officers deserve respect and admiration: and though meerly officary, and depending on life, and the Kings gracious election, without any hereditary title or perfection, yet are they of such high dignity, that all hereditary honour whatsoever under the degree of Royalty may (at all times) without disparagement give them place and precedency: The placing of these most Noble and Great Officers both in the *Parliament-House*, and other
Assem-

Assemblies, is after this worthy and distinct order.

That is to say, the Lord Chancellor or Lord Keeper, the Lord Treasurer, the Lord President of the Kings Privy Council, and the Lord Privy-Seal, being of the degree of Barons of the *Parliament*, or above, to sit on the highest part of the form; on the left side in the *Parliament-Chamber*; and above all Dukes, except those which are the Kings Sons, the Kings Brothers, his Uncles, his Nephews, or his Brothers or Sisters Sons: but if any of these four great Officers afore-said shall be under the degree of a Baron, then he or they to sit on the uppermost part of the Sacks in the midst of the *Parliament-Chamber*, in such order as is afore shewed.

As touching the other, it was enacted that the Lord great Chamberlain, the Lord Constable, the Lord Marshal, the Lord Admiral, the Lord Steward, and the Lord Chamberlain of the Kings Household, shall be placed next to the Lord Privy-Seal, each of them above all other personages
being

being of their own estates or degrees, and holding the same precedence, as they are formerly named.

Lastly, The principal Secretary being of the degree of a Baron, shall be rang'd above all Barons, (not having any of the former offices also) and this range and precedency to continue to all the great Officers in general which are before named, both in *Parliament*, in Council-Chamber, in the Star-Chamber, at the trial of Peers, and in all other Assemblies whatsoever.

This in brief is the effect of the Statute, expressing the dignity and place of our most principal and supremest Temporal Officers; of which the first and chiefest is the Lord Chancellor, or Lord Keeper, who is said to be the Kings Conscience, his mouth, and confirmation, for by him all the rigours of the Law are bridled, the Kings will in grave Consultations revealed, and his gifts and prerogatives confirmed; before him all the great business of the Commonwealth is
dis-

dispatcht, either at Council-Table, in Star-Chamber, or in the Chancery, where he hath a principal voice and precedence : and lastly, he hath the keeping of the great Seal of the Kingdom, in which is exprest a reputation so serious that all Subjects lives and Estates depend on the same.

The next in place is the Lord High Treasurer of *England*, to whose trust the Kings Treasure is committed ; who is a man of that noble, worthy, sweet and generous disposition, of important confidence, of noble estimation, excellent in wisdom, and high in estimation, and to his wisdom and excellent judgment is referred the whole mannage of the Kings entire Estate, and the provident regard of the wealth and flourishing prosperity of all the Kings Subjects: he is the prime Officer Judicatory between the King and his Tenants, and hath dependence on the Council-Table, the Exchequer, and the Kings Royal House and Family.

The next to these is the Lord President of the Kings most honourable Privy Council, and is the chief man (next the King) belonging to that high and honourable Assembly, and hath in his power under the Kings Majestie, the mannage of the privileges of that Honourable Table.

The next is the Lord Privy Seal, an especial Ensign of credit belonging to this Kingdom, having custodie and charge of the Kings Lesser Seal, which gives testimony of the Kings favours and bounty, but also making the way clear and accessible to the Great Seal, in which consists the strength of his Majesties confirmations; these first four great Officers are civil, and judicatorie, as depending on the publick State: after whom follow six other, which are as well Military as Civil, having the manning of all matters of honour, and warlike proceedings.

The first of which is the L. Chamberlain of the kingdom, whose Office is of the greatest imployment in all publick Assemblies, as Coronations,
Par-

Parliaments, Triumphs, or any Solemnity where the King himself rideth in person: which Office is not Officiary, but Honorary, depending by a feudal right unto the Noble House of the Earls of *Oxford*.

After this is the Lord Constable of the Kingdom, who was the first and principal General under the King of all the land-Forces, and in all occasions of Martial affairs, had the principal nomination of Officers, and ordering of Munition for such employment.

Then is the Lord Marshal of the land, a great and renowned Officer, in whom consists the solution of all differences in Honour, and dispensation of all things appertaining to the great or lesser Nobility. Next followeth the Office of the Lord Admiral of the Land who is the Kings General, and chief Commander at Sea, and hath care and charge of all his Majesties Royal Navy, and the censuring of all Marine causes whatsoever.

The

The next following is the Lord Steward of the Kings Household, in whose trust and government is reposed the ordering of all the great and Noble Families, the discussion of all controversies, the placing and removing of Officers, and the disposing of all things therein for his Majesties renown and dignity.

The last of these great Officers is the Lord Chamberlain of the Kings Royal Household; unto whose great trust, faith and integrity is committed the guard of the Kings Royal person, he hath the controll and commandment of all Officers, and others whose dependence is on the Kings person; and howsoever some would limit his rule above the Stayrs, yet it is over the whole Court, and in all places wheresoever the King is present; with many other priviledges which at this time cannot be fully recited.

After all these great Offices and Officers, I must necessarily add one great Officer more, namely the
Kings

Kings chief and Principal Secretary of Estate, who deserves a due respect by his High and Honourable Place, in regard he is so intimate and nigh to all affairs of his Majesty, either private or particular.



THE

THE
MANNER

How
STATUTES

Are enacted in
PARLIAMENT

BY
Passing of Bills.

Collected many years past out
of the Journalls of the House
of Commons.

By *W. Hakewil* of Lincolnes Inne,
Esquire.

*Together with a Catalogue of the
Speakers Names.*

LONDON,


Printed for *Abel Roper*, at the Sign
of the *Sun* in *Fleetstreet*. 1670.



41.
11. 6.
613



THE PREFACE.

AVING about thirty years past, the free use and perusal of all the Journalls of the Commons House of Parliament from the first year of King *Edward* the Sixth, (being the most Ancient that they have) untill that time. And being unwilling to lose the advantage of that Opportunity, I read them all through, and whatsoever I

The Preface.

conceived to tend to the rule of the House, (wherein I was the better inabled to judge, in respect I had served in divers Parliaments, or Sessions of Parliament before that time) I reduced under apt Parliamentary Titles : Amongst the rest in this Chapter of passing [of Bills, I was the more sedulous, because it is indeed the daily and most proper work of that House, wherein I have been carefull, not to propose any thing for a Rule, for which I have not vouched the Authority of the Journall. Those my Collections, I imparted many years since to some of my Friends (which being by the length of time multiplied into very many Copies) one of them, (and I think the falsest written of all the rest) was without my knowledge lately printed,

The Preface.

ted, and by the negligence of the Printer, the errours of the Copie were much increased, in so much that it pleased the Honourable House of Commons, (because it concerned their Orders) to take notice thereof, and take some order therein; by which I was induced to make this Publication, being otherwise very unwilling to have appeared in Print, and to have subjected my self to publique censure.

It were (in my poor Opinion) to be wisht, that the same course were taken by the House of Commons, as was by the Lords in 18. *Jacobi Regis*; who appointed a Committee for the collecting of the Rules and Orders of that House; which being Collected, they caused to be fairly ingrossed in

The Preface.

a Roll of Parchment, which by Order is alwayes read in the beginning of every Parliament, and resteth in the custody of the Clark of that House, to be presently resorted unto upon all occasions, whereby much of their precious time is saved, which otherwise perhaps would have been spent in the debating of the Rules and Orders of their House.

Another excellent Order was made by their Lordships, that once every week, a Committee appointed for that purpose, that should peruse and perfect the Clarks notes, and that at the end of every Session, all the Orders of that Session should be ingrossed in vellam, and fairly bound up, which course first began in the time, when my worthy friend Master *Henry Elsyng*, that most indu:

The Preface.

industrious and able Gentleman, was Clark of that House, & hath continued ever since; whereas before that time all their Journalls (of which the most ancient are from the beginning of King *Henry* the eight) are in paper, as are those of the Commons House, but more fairly written.

If to this care of perfecting of the Journalls of the House of Commons, there were some provision made by that House, for the safe preserving of them, answerable to that which the Lords have, whose Clark hath a house belonging to him and his successors, where all their Records are kept to Posterity; the Journalls and Records of the Commons House, would not (as now they may) come to the hands of Executors or Administrators, and be removed too & fro in hazard of being lost, or corrupted

The Preface.

and defaced, as is well known that some of them have been, and that in passages of the greatest moment, whereby the Commonwealth may receive great prejudice if it be not prevented, which my humble Propositions, I do (together with this Treatise) in all humility submit to the great wisdom of that Honourable Assembly, by whose favour this is published.

William Hakewel.

The



The Contents.

B*y whom Bills are drawn and presented to the Parliament.*

Fol. 131.

Orders to be observed in preferring the Bills to be read.

134.

Touching the first reading of Bills.

137.

Touching the second reading and committing of Bills.

143.

Touching the third reading of Bills.

152.

Touching Provisoers, Schedules, Amendments, and Amendments of Amendments.

160.

Touching the sending of Bills from one House to the other.

175.

G 55

Touching

The Contents.

Touching the Royall Assent. 179.

A report of divers memorab'e passages between both Houses in the Parliament, 18. Eliz. concerning the adding of a Proviso by the Commons, unto a Bill sent to the Lords ingrossed and signified by the Queen, and passed by the Lords for the restitution in blood of a certain Lord, and sent down by the Lords to the House of Commons. 183.

The



The manner how
S T A T U T E S
 Are Enacted in
P A R L I A M E N T
 By Passing of
B I L L S.

CHAP. I.

Sect. I.

By whom Bills are drawn and presented to the Parliament.



Public Bills are usually drawn by such of the House (with the advice of Lawyers) as of themselves are earnestly inclined to the effecting of some publick

lick good, which requireth the assistance of some new Law, which being fair written in paper with wide lines, they are either by some Member of the House publickly presented to the Speaker in the House, with some short speech setting forth the needfulness of a Law in that behalf, or are delivered in private to the Speaker, or the Clark of the Parliament, to be presented to the House at some time convenient. And it is in the choice of the party to prefer his *Bill*, First, into the Lords House, or the House of Commons which he list, and as he shall think it may most advantage his cause.

Many times upon the motion of some one of the House (wishing a Law were made for provision to be had in such a case) a Committee is purposely appointed by the House to draw a Bill to that effect; which being done, one of them presents it to the Speaker.

This is usual in cases of great moment and difficulty.

The Bill for Subsidies is usually drawn by some of the Kings Councill, after the substance thereof, for the number of Subsidies & fifteens to be granted, and

and the times of payment is first agreed in the House. The preamble thereof containeth the causes of the grant, which is usually drawn by some principal member of the House, being a selected Committee for that purpose.

Bills for the Revival, Repeal or continuance of Statutes, are usually drawn by Lawyers, being members of the House, appointed thereunto by the House, upon some motion to that purpose made, which is usual at the beginning of every Parliament.

Private Bills are usually drawn by Councillors at Law, not being of the House, and sometimes by those of the House (and that for their fees) which howsoever it hath been held by some to be lawful, yet it cannot be but very inconvenient, seeing they are afterwards to be Judges in the same cause.

A Bill hath been sent to the Speaker, signed by the hand of Queen *Elizabeth*, with special commandment to be expedited; but that is a rare case and very extraordinary: yet such was her Majesties favour to Sir *Thomas Perrot*, in a Bill for his restitution in
blond,

*bloud, as it appeareth by the Clerks
Journal 35 Eliz. 26. Martii.*

Such Bills as being first passed in one House, are sent unto the other, are alwayes sent in Parchment fairly ingrossed.

Thus much touching the first drawing and presenting of Bills to the Parliament.

SECT. II.

*Orders to be observed in preferring of
Bills to be read.*

Publique Bills are in due course to be preferred in reading & passing before private: and of publike, such as concern the service of God and good of the Church. Secondly, such as concern the Common-wealth, in which are included such as touch the person, revenue, or Household of the King, Queen or Prince, and they ought specially to be preferred in passing. Lastly, private Bills should be offered to be read and passed in such order as they were preferred.

There

There have been oftentimes orders in the House, that after nine of the clock, when usually the House groweth to be full, they should not be troubled with the reading of any private Bill: And towards the end of the Parliament, when there remaineth many Bills in the House undispached, there hath been a special Committee appointed to take a survey of them, and to Marshall them by their titles in such order as they should think fit; they should be preferred to their passage, having respect to the importance of the matter which they concern.

It hath at some times been ordered, that every one that preferreth a private Bill, should pay five pound to the poor, which was done 43. *Eliz.* towards the end of the Parl. when they were troubled with much business, but it holdeth not in other Parliaments.

In the Treatise de modo tenend. Parliament. which I have seen exemplified under the great Seal of Ireland, in the sixth of Henry the fourth, testifying the same to have been sent into Ireland by Henry the second, for a form
of

of holding Parliaments in that Kingdom, of which I have a Copy, there is (touching the order of preferring of Bills) this clause found.

*Petitiones sunt affilate sicut de'iber n-
tur, & sic per ordinem leguntur & re-
spondiantur, sed primo determinentur
que ad guerram pertinent, postea de per-
sona Regis & Reginae & pueris suis, a:
gubernationem eorum, & postea de com-
munibus negotiis terre; sicut est de le-
gibus faciend. & emendend. (viz.) o-
riginalibus judicialibus & executoriis
post iudicium reddit, & post singulares
petitiones secundum quod sunt super fi-
lariis.*

But the Speaker is not precisely bound to any of these rules for the preferring of Bills to be read or passed, but is left to his own good discretion (except he shall be especially directed by the House to the contrary) and howsoever he be earnestly pressed by the House for the reading of some one Bill, yet if he have not had convenient time to read the same over, and to make a breuiat thereof for his memory; the Speaker doth claim a priviledge to defer the reading thereof to some other time. And

And thus much touching the order of preferring of Bills to be read or passed. Now followeth touching the reading or passing of them.

SECT. III.

Toucbing the first reading of Bills.

THe Clark being usually directed by the Speaker (but sometimes by the House) what Bill to read, with a loud and distinct voice, first readeth the title of the Bill, and then after a little pause) the Bill it self; which done (kissing his hand) he delivereth the same to the Speaker, who standeth up uncovered (whereas otherwise he sitteth with his hat on) and (holding the Bill in his hand) saith, *this Bill is thus intituled*: and then readeth the title, which done, he openeth to the House the substance of the Bill, which he doth, either trusting to his memory, or using the help, or altogether the reading of his Breviat, which is filed to the Bill, sometimes reading the Bill it self, especially upon the passage
of

of a Bill, when it hath been much altered by the Committees, so that thereby it differeth very much from the Breviat.

Tertia Sessioe 1. Parliament. Jac. Rep. It was ordered, that the Committees which amended the Bill, should likewise amend the Breviat in the principal matters for the ease and direction of the Speaker.

When he hath thus opened the effect of the Bill, he declareth to the House, that it *is the first reading of the Bill*, and delivereth the same again to the Clark.

The Bill containing the Kings generall pardon hath but one reading in the Lords House, and one below: The reason is, because the subject must take it as the King will give it, without any alteration: and yet many times exceptions are taken at the reading thereof, for that it is not so favourable as in former times.

The like of the Bill of Subsidies granted by the Clergy.

That day that the Speaker being approved by the King, commeth down into the Commons House to take his place,

place, the custom is to read for that time onely one Bill, left unpast the last Sessions, and no more, to give him seisin as it were of his place, 39 *Eliz.* 27 *Octo.*

The usuall course is to spend the morning before the House grow full in the first readings, and to defer the second or third reading till the House grow full.

At the first reading of the *Bill*, it is not the course for any man to speak to it, but rather to consider of it, and to take time till the second reading; yet it is not altogether without president, that a *Bill* hath been spoken for, and against upon the first reading, which is very seldom, and onely in cases where the matter of the *Bill* is apparently inconvenient and hurtful to the Common-weal, and so not fitting to trouble the House any longer; but at the first reading, no man in ordinary course should speak to any one part of the *Bill*, or for any addition; for thereby it is implied, that the body of the *Bill* is good, which till the second reading, doth not regularly come to the triall.

If

If any Bill originally begun in the Commons House upon the first reading happen to be debated too and fro; and that upon the debate, the House do call for the question, it ought to be not *whether the Bill shall be secondly read*, for so it ought to be of ordinary course, but *whether it shall be rejected* in this sort: *As many as are of opinion that this Bill shall be rejected* (say yea) *As many as are of the contrary mind* (say no) and the greatest number of voices shall carry it, 43 Eliz. 17. November. The Bill against unlawful hunting, 5 Sess. Jac. Reg. 25. Octob.

If a Bill coming from the Lords be spoken against, and pressed to be put to the question upon the first reading: the Speaker in favour and respect thereto, should not make the question for the rejection, as in Bills originally begun in the Commons House upon the first reading, but should first make the question for the second reading: And if that be denied, then for rejection. *This course was usually he'd by Serjeant Phillips, when he was Speaker.* But usually when any such debate is upon the first reading

ing of a Bill, the Speaker doth forbear to make any question at all thereupon, except he be much pressed thereto, for that it were fit better to consider of it before it be put to such a hazard.

If the question for the rejection be made, and the greater voice be to have it rejected, the Clerk ought to note it rejected in his journal, and so to indorse it upon the back of the Bill, and it shall be no more read; if the voice be to have the Bill retained, it shall have his second reading in course.

It is against the ordinary course, that the same Bill should be read more than once in one day, yet for special reasons it hath been suffered, that private Bills have been in one day read twice; *As in the aforesaid case of Sir Thomas Perrot, though it were a private Bill; so was it likewise done in the Bill for the assurance of Lands given by Master Sutton for charitable uses, because he was taken then extreme sick, and that it was doubtful, whether he might live while the Bill might have his passage in ordinary course.*

And it is likewise done sometimes, when

when the House lacketh other businesses wherein to imploy themselves, especially if the Bill be of no great importance, howsoever it is never but upon motion and special order.

When special Committees appointed for the drawing of some one special Bill, present the same ready drawn unto the House: it hath been often seen, that the same Bill hath been not only twice read, but ordered also to be ingrossed the same day, *as it was in the Bill against counterfeit Seals, 23 Eliz. 16 Feb. And in the Bill against disobedience to the Queen, 4 Martii of the same Parliament.*

Neither is it without president, that a Bill hath been thrice read and passed in the same day; *as was the Bill of recognition of his Majesties title which came from the Lords, 1 Jac. Reg. Sess. 1.* but this is a president that standeth alone, and in that case it was resolved that the Bill might not be returned to the Lords without a copy first taken thereof by the Clark to be reserved in the Commons House.

S E C T. IV.

Touching the second reading and committing of Bills.

A Bill may be preferred to be secondly read the next day after the first reading, but the usuall course is to forbear for two or three dayes, that men might have more time to consider upon it, except the nature of the business be such that it requireth haste.

After the Bill is secondly read, the Clark as before in humble manner delivereth the same to the Speaker, who again readeth the Title and his Breviat as he did upon the first reading; which done, he declareth that it was now the second reading of the Bill, and then he ought to pause a while, expecting whether any of the House will speak to it; for before the Speaker hath so declared the state of the *Bill*, no man should offer to speak to it; and then and not before is the time when to speak.

If after a pretty distance of time, no man speak against the Bill for matter
or

or form he may make the question for the engrossing thereof, if it be a Bill originally exhibited into the Commons House.

So likewise if divers speak for the Bill without taking exception to the form thereof, he may make the same question for the ingrossing. The like question for the ingrossing ought to be made, if the greater voice be, that the Bill shall not be committed, for it were to no end further to delay the proceeding of the Bill, if there be no exception taken to the matter or form thereof, but upon the second reading, and after the Speaker hath delivered the state thereof, the House doth usually call for the committing of the Bill, and then if any man will speak against it, either for matter or form, he ought to be heard.

After the first man hath spoken, the Speaker ought to rest a while, expecting whether any other man will speak thereto, so ought he likewise to do after every Speech ended, when he perceiveth that the debate is at an end, he ought then to make the question for the committing thereof in this sort:

As many as are of opinion that this Bill shall be committed say (yea.)

And after the Affirmative voice given, *as many as are of the contrary opinion say (no.)*

And he ought by his ear to judge which of the voices is greatest ; if that be doubtful, the House ought to be divided touching the manner, whereof there shall be more said in another place.

If upon division of the House it appears that the numbers are equal, the Speaker hath the casting voice upon all questions.

If it appear that the affirmative voice be the greater, then ought he to put the House in mind touching the naming of Committees, which is done in this sort :

Every one of the House that list may call upon the name of any one of the House to be a Committee, and the Clark ought in his journal to write under the title of the Bill the name of every one so call'd upon, at leastwise of such whose names (in that confusion) he can distinctly hear ; and this he ought to doe without partiality

H

either

either to those that name, or to the party named. But touching the naming of Committees, and their duties, more shall be said in another Chapter.

But he that speaketh directly against the body of the Bill, may not be named a Committee, for he that would totally destroy will not amend.

When a convenient number of Committees are named, then ought the Speaker to put the House in mind to name time and place, when and where the Committees may meet, which the Clerk ought likewise to enter into his journal-book; and when the House is in silence, he ought with a loud voice to read (out of his book) the Committees names, and the time and place of the commitment, that the Committees may take notice thereof.

After a Bill which is sent from the Lords hath been twice read, the question ought to be for the commitment; if it be denied to be committed, it ought then to be read the third time, & the next question ought to be for the passage, & not for the ingrossing, as it is where the bill originally begins in the

Lower

Lower House; for Bills which come from the Lords, come alwayes ingrossed.

This question for the passage, should in ordinary course be then made when the Bill is denied to be committed, but not till the Bill have been read the third time.

If that question for passage be deferred till another day, it hath been much doubted whether it may then be offered to the passage; but upon debate of this point after many Arguments too and fro, *Anno 27. Eliz. 18. Februa. by the opinion of Sir Francis Walsingham, then one of the House, and by order of the whole House it was agreed it might be done.*

The Bill then in question was, *The Bill against fraudulent conveyances. Fol. 85, & 86. in the Clerks book for that year, so it was done 1. Sess. 1. Parliament. Jac. Regis, for the Bill of hunting.* But this Precedent is not so safe, for the House considering that oftentimes the Bill is denied to be committed upon utter dislike thereof, after it hath been long debated; and yet if that rule should hold, there may be a time picked out of great disadvantage to the House to

put it to question for the passage.

In the debating of Bills in the House no man may speak twice in one day, except the Bil be offer read then once, and then a man may speak as often as the Bill is read; otherwise it is at Committees, or when in the House the debate ariseth upon some motion concerning the order of the House; but touching the manner of speaking, and what orders shall be observed therein, more shall be said elsewhere.

When the Committees have fully resolved touching the Bill, and the amendments thereof, one of them, by the consent of all the rest, ought to make report thereof to the House, opening the substance of the things amended, & the reasons thereof; which done, he ought to bring the Bill so amended to the Clark, and to stand by the Clark all the while that the Clark is reading of the amendments, and ought to help the Clark in reading of the same, in case it be difficult to be read; which falleth out very often, by reason of interlining or ill writing.

The Clark ought to read every amendment and interlining twice, that
so

so it may have as many readings as the rest of the Bill hath had ; and very many times it will fall out that the interlining and amendments so read by the Clark, will of it self (without reading of the clause going before or following) be no sense, yet notwithstanding, the Clark ought only to read the new amendments without meddling with any of the rest of the Bill ; for it is intended that the reporter hath declared to the House the reason of the amendment , and the connexion thereof to the rest of the Bill to make it sense.

And it hath sometimes been permitted (when the amendments have been many and ill written) that the whole Bill hath been first read, and *then the alterations by themselves.*

The Bill of hostile Laws, 3 Sess. 5. Parliamen. Jac. Reg. 4. Junii, 1607.

After the amendments thus read, the Clark ought to deliver the Bill unto the Speaker, who (*holding the same in his hand*) ought again to read the Title thereof, and to put the question, whether or no it be the pleasure of the House that the Bill thus amended shall be put to the question for ingrossing, &

then ought to pause a while, expecting whether any man will speak to it or no; for it is as free for any man to speak against the Bill at this time, though it hath passed the approbation of the Committees, as it was at the second reading before the same was committed.

And after the debate is ended, the Speaker ought to put the question for ingrossing.

If the greater number of voices be that the Bill ought not to be ingrossed, the Clerk ought to make an entry in his journal, that the same was dashed; and so ought he likewise to note upon the back of the Bill, and the day when. If the voice be to have it ingrossed, it is the office of the Clerk to do it.

It is alwayes to be observed, that when the Bill is ingrossed, the Clerk ought to indorse the title thereof upon the back of the Bill, and not within the Bill in any case.

So ought likewise such Bills as come from the Lords to have titles ingrossed upon the back of the Bill, and not within: In defect whereof, divers Bills coming from them, have been
return-

returned to be amended, as may appear by the Journals, 27 *Eliz.* 19 *Decemb.* 13 *E.* 27 *May*, 19 *E.* 24. *Octob.* 4. *Sess.* 1. *Parliament.* *Jac.* *Reg.* 5. *Mail.*

The Bill as it is amended by the Committees ought to remain with the Clerk for his Warrant, and it is not an ordinary course to cause the Bill so amended to be fairly written for the better ingrossing thereof; yet hath it been seen that a Bill ill written in the amendments hath been returned to the Committees to be fairly written, and by them presented to the House; and upon the reading thereof ingrossed, 27 *Eliz.* fol. 91. in the *Journal.* At some times it hath been ordered that a Bill so written should be proceeded in as a new Bill, 23 *Eliz.* 28. *Feb.* 27. *Eliz.* fol. 91. in the *Clerks book* or *journal.*

After a Bill hath been committed & is reported, it ought not in an ordinary course to be committed, but either to be dashed or ingrossed; and yet when the matter is of importance, it is sometimes for special reasons suffered: But then usually the recommitment is to

the same Committees. *The Bill against the Marshallsea, 3. Sess. 1. Parliament. Jac. Reg. 30. April, 1607. was committed and reported, and Counsell heard at the bar. Whereupon it was recommitted, and other Committees added who altered the former proceedings; and it was agreed that the former proceedings were waved, and the latter good.*

SECT. V.

Toucking the third reading of Bills.

SOME two or three dayes after the Bill is thus ordered to be ingrossed, and is accordingly ingrossed, it is offered by the Speaker to be read the third time for the passage thereof.

For the most part the Speaker putteth not any one Bill to the passage by itself alone, but stayeth till there be divers Bills ready ingrossed for the third reading; and when he hath a convenient number (which may be five or six, rather less than more) then

then he giveth notice to the House that he purposeth the next day to offer up some Bills to the passage, and desireth the House to give special attendance for that purpose ; and then the day following he doth accordingly put them to the third reading. First, private Bills until the House be grown to some fulness, and then he offereth to be read the publick Bills which are ingrossed.

It hath at some times been ordered , for the preventing of carrying of Bills with few voices, that no Bills should be put to the passage until nine of the clock, at which time the House is commonly full, or shortly after.

When the Bill is read the third time, the Clark delivereth it to the Speaker, who reads the title thereof, & openeth the effect of the Bill, and telleth them that the Bill hath now been thrice read, and that (with their favours) he will put it to the question for the passing ; but pauseth a while, that men may have liberty to speak thereto ; for upon the third reading the matter is debated afresh, and for the most part it is more spoken unto this time.

then upon any of the former readings.

When the argument is ended, the Speaker (*still holding the Bill in his hand*) maketh a question for the passage in this sort ; *As many as are of opinion that this Bill should pass, say yea, &c.*

If the voice be for the passage of the Bills, the Clerk ought to make a remembrance thereof in his Journal ; If otherwise, then his remembrance must be made accordingly. Upon the Bill thus passed (if it be the Bill originally exhibited in the House of Commons) the Clerk ought to write within the Bill on the top towards the right hand these words, *Soit baille aux Seigneurs.*

If the Bill passed be a Bill originally begun in the Lords House, then ought the Clerk to write underneath the subscription of the Lords, which alwayes is at the foot of the Bill, these words,

A cest Bille les Communs sont assentus.

There are divers other forms of signing of Bills, sometimes when new Additions are made, sometimes when Provisoos are added ; of which
more

more ample mention shall be made in the Chapter which treateth of *the duty of the Clerk.*

If the House see cause to amend any thing in a Bill originally begun in the Commons House upon the third reading thereof, and that the amendment thereof will not much deface the Bill, nor spend much time, the use is to cause the Serjeant to call in the Clerk that did engross it (being usually a servant to the Clerk of the House) and to cause him standing at the Table by his Master, in the presence of the whole House, to amend the same according to their direction. Sometimes if the amendments be but of a few words, it is done by the Clerk himself writing of a fair hand.

It hath sometimes been seen (which is rarely yielded unto, and only in Cases where the Bill to be passed is of good importance) that if a question grow for the amendment of some Clause, or for the making of some addition thereunto, that it hath been recommended for the amendment thereof, but then usually the Committees are appointed forthwith to withdraw them

themselves into the Committee-chamber, and presently dispatch the same.

The Bill concerning Rites and Ceremonies at the third reading was referred to be further considered of, 14 El. 20. Maii, and in 43 El. 2. Decemb. The Bill to avoid double payment of debts, 13. Sess. 1. Parliament. Jac. Reg. Mr. Bathwests Bill being ready for the question to pass, was deferred for eight dayes, that the other part might have notice, and then passed without further opening. Quod nota.

No Bill upon the third reading, for the matter or body thereof, may be recommitted, as hath been said, but for some particular Clause or Proviso it hath been sometimes suffered; and that difference was taken for a rule in *The Bill for Sea-sands, 4. Sess. 4. Maii 1610. In the third Sessions of the first Parliament of King James, 12. die Maii, the Bill of clothing being ingrossed, and read the third time, exception was taken to the last Proviso thereof, whereupon after much debate it was recommitted; which is to be observed as a thing unusual after the third reading.*

The next day it was returned again

again by the Committees, with their opinions that they held it fit that a Proviso therein should be struck out ; whereupon the question grew, whether the Proviso being put to the question alone, and rejected, the whole *Bill* should not be dashed thereby ; at last resolved no ; whereupon the Proviso being put to the question and rejected, it was order'd it should be raz'd out of the *Bill*, which was presently done at the board by the Clerk, and the *Bill* was put to the question, and so passed. The like in the *Bill concerning Wherry-men, the same Session, 18 Maii 1607.*

If hath been much doubted, whether when a *Bill* is in debate for the passage, it ought not to receive the resolution of the House the same day wherein it is first offered to the passage ; but there have of late been some Precedents, where the case being of some importance, & the debate growing long, the argument hath been put over till the next day, in which case he that hath already spoken to the *Bil* the first day may not again speak the second, no more then he may speak twice in one day where the argument
is.

is not deferred to another day.

If a Bill be rejected, the same Bill may not be offered to the House again the same Session; but if it be altered in any point material both in the body and in the Title, it may be received the second time.

In the time of the reading of a Bill, the House should not be interrupted with any other business; and yet in 1 *Eliz.* 24. *Mat.* the House adjourned it self till the next day after the Bill for sealing Clothes was half read; onely to be present at the conference about Religion in *Westminster-Abbey*.

Sometimes the House conceiving much offence against some Bills, doth not onely order them to be rejected, but to be torn in the House; as it was done in the Bill *to avoid Aliens not being here for Religion*, 1 *Eliz.* 23. Jan.

It hath been seen that two Bills being apt to be joined together, have by order of the House, after they have been twice read, been ordered to be ingrossed as one Bill, and so passed; which is somewhat strange, for that both being made into one Bill, it is there-

thereby become a new Bill ; nevertheless it was so done in two Bills *concerning Treason, 13 Eliz. 26. Apr.*

When a Bill is thrice read and passed in the House, there ought to be no further alteration thereof in any point. Nevertheless if it do appear that there be some apparent mistakings therein, either by false writing, or otherwise, the House upon notice thereof hath caused the same to be amended the day following, and reading the amendments three times, have again passed the Bill upon the Question ; which is a rare precedent, yet was it so done 25 *Eliz. 20. Januarii*, *Popham* being Speaker, which is a memorable Case.

Anno 23. Eliz. 14. Martii, the Lords sent down a Bill *Touching the maintenance of the borders of Scotland* ; the House proceedeth with another Bill to the same effect; the Lords complain that it is against order so to do, without praying a conference with them; which was spoken by the Lords at a conference, and answered by the Committees of the Commons House they might lawfully so do.

Sect.

SECT. VI.

Touching Provisoes, Schedules, Amendments, and amendments of Amendments.

Touching the offering and passing of Provisoes, the course is thus; If any man will offer a Proviso to a Bill originally begun in the Commons House, it ought to be offered in Paper, as long as the Bill it self is not ingrossed; but when the Bill is once ingrossed, it ought to be offered in Parchment, and not in Paper.

If a Proviso, or Schedule of addition, be offered to any Bill coming from the Lords at first or second reading, it must be offered in Paper, and not in Parchment, though the Bill be a Bill ingrossed, for that it may receive much amendment at the Committee; and when 'tis together with the Bill returned to the Committees, there ought to be a special question made by the Speaker, whether the Proviso shall be ingrossed; if it be denied, he may put the Bill to the passage at the third reading without

out the Proviso; if otherwise, then he ought to deliver the Proviso to be ingrossed, and some other day when the Proviso is ingrossed must put the question upon the passage.

If it be offered at the first reading to a Bill begun in the Commons House, which is seldom, it ought to be but once read at that time, and so filed to the Bill; If at the second reading, it ought to be read twice, as the *Bill* it self hath been, and ought to be committed together with the *Bill*; if it be offered at the third reading, the *Bill* being ingrossed, it ought to be read three times before the question be put for the passage of the *Bill*: but after every several reading thereof the Clerk ought to pause a while, to give men time to speak thereto; many times upon the second reading it is spoken unto, and sometimes committed or amended at the board, sometimes rejected without more reading: upon the third reading thereof the question ought to be made whether or no the House doth think fit to annex that Proviso to the *Bill* read; which
question

question ought to be made singly upon the Proviso, and afterwards the question ought to be made for passage of the Bill, together with the Proviso annexed. If the Bill with the Proviso annexed do pass upon the third reading, the Clerk ought to sign the same in this sort upon the Bill towards the right hand :

Soit baille. aux Seigneurs avecque un provision annex.

And ought to sign the proviso itself,

Soit baille aux Seigneurs.

The like rules here given for Provisoes are to be observed, when any Addition (which alwayes containeth in it another Clause) or Branch of the Bill is desired to be enacted, and offered by any of the House, with this difference; that whereas the Clerk in Case of a Proviso maketh mention of the Proviso annexed, he ought in this Case to write, *avecque un Schedule annex.* for that which containeth an Addition is called a Schedule. After a question

question propounded in the affirmative upon the passage of a Bill, & before the question for the negative part, a Proviso was offer'd, and judged to be received, 1 Jacobi 13. Jun. 1604. Such Bills as come from the Lords have their passage in the Commons House by three readings, as well as those that originally begun there; when they are committed, and the Committee see cause to make some amendment in them, they ought not to interline or raze, or make any other alteration in the Bill it self, as they do in their own Bills, but in a paper thereto annexed they ought to express in what line, and between what words they desire the amendments to be made, which they ought to return up to the House. If upon the report thereof the House shall approve the doings of the Committees, then ought the Bill with the Paper affixed to be sent to the Lords House, to be accordingly amended by the Lords, if they shall so think good. So likewise ought the Lords to do where they desire alterations in any Bill passed from the Commons House unto them. And in this Case after
the

the amendments read three times, the question ought first to be put, whether the amendments shall accordingly be assented unto. Secondly, for the passage of the *Bill*, with the amendments (if it pass) the Clerk ought to sign it in these words underneath the signing of the Lords at the foot of the *Bill*,

A cest Bille avecque les amendments les Communs ont assentus.

When the Lords send down amendments they ought to be read two times, and then if excepted unto, put to the question for the committing. If they be approved by the Committees, and so reported, then ought the question to be put for the amendment of the *Bill* accordingly.

Anno 29 Eliz. 25. Decemb. the *Bill touching Labourers*, passing first from the Commons House, was sent from the Lords with amendments in Parchments, and the Parchments formally indorsed, *Soit baille aux Communs*; to which, exception being taken, there was much contention about it between the Houses, and Precedents sought up; and at last re-

resolved, it ought to be in Paper, without any indorsement at all: otherwise it is where there is a Schedule of additions, or a Proviso annexed, for they ought alwayes to be sent in Parchment; the Journal-book in this place handleth this point at large.

If there be cause to make alteration in some Proviso or Schedule sent from the Lords, the amendment ought to be tendered in Paper, and so passed to the Lords, 3 *Ses. Jac. Reg.* 30. *Farii.*

If besides the amendments a Proviso be added thereunto, or a Schedule of additions, there ought to be mention thereof made by the Clerk in the signing of the *Bill*.

If the Commons House pass a *Bill* sent from the Lords with some additions by way of Schedule (which ever containeth some new Clause, or entire branch added to the *Bill*) or with some Proviso to be added thereto, the same ought to be sign'd as a new Bill, *Soit baille aux Seigneurs.*

For the omission of which the Lords conceiving that they have not had

had warrant to proceed, thereupon have returned the same to the Commons House to be amended, and the same hath been reformed accordingly, *In the Bill against scandalous rumours, 23 Eliz. 8. Maii.*

If the Lords do absolutely disallow of any thing required by the Commons House to be put out, or of any addition or alteration to be made by way of amendment, the Bill can then have no further proceeding; for if the Commons say, *put out*, and the Lords say, *let it stand as it was*, the same being before determined by question in the Commons House, cannot be brought to the question again, *23 Eliz. 9. Mart. The Bill of Scandalous Rumours, &c.* But if the Lords, for explanation of such a sentence as is in question, do add words to the additions of the Commons, without putting out of any part of that which is required to be added or altered by the Commons, the same being set down in writing by the Lords, and sent to the Commons together with the Bill, if the Commons do allow thereof, they are to add the words required by
the

the Lords Paper, and to insert the same into their own Paper, and so return the same to the Lords; who thereupon ought to enter it into their Bill ingrossed, and so the Bill hath his passage. The like in all points *mutatis mutandis*, in Bills originally begun in the Commons House, and sent to the Lords; but if to the Bill coming from the Lords, any Proviso or entire new matter be added by the Commons (because it is adjudged as a new Bill) and hath not been at the question in both Houses, the Lords may by their Paper require to have part thereof put out, or may offer additions thereunto; which being returned to the Commons, and they giving allowance thereof, they are accordingly to amend the same in their own house, without sending it back to be amended by the Lords; for *amendments ought alwayes to be in that House from whence the thing to be amended originally proceedeth*, though the directions for the amendments came from the other House; and so *mutatis mutandis*, in Provisos or other entire Additions required by the Lords to be added to any

any Bill proceeding from the Commons : And it is held for a general rule, that neither House may of themselves put out any thing which they have before passed, otherwise then requested by the House which hath not passed the same : In the Parliament 31 Eliz. when Mr. Snagge was Speaker, it was usual, when either House desired the clear passage of any Bill sent unto them from the other House, in which they thought fit to make alterations, to acquaint the House from whom it came with the alterations which they intended to make, and to desire to know their willingness thereto, thereby to prevent the hazard of the Bill, if perhaps they should make alterations not approved of. In like sort they sometimes used conferences onely, to prevent the casting away of Bills for some small difference about the amendments. See for this the Clerks Book of the Parliament 21 Martii, and 27 Elizab. 10. Martii, the Bill against Jesuits : The like 23. Eliz. 17. Martii, the Bill against Seditious Rumours. Anno 23. Eliz. 24. Martii, In the Bill for the better government of Westminster, the

Com-

Commons at the request of the Lords do alter their own amendments.

The like was done by the Lords at the request of the Commons upon a conference for that purpose, *In the Bill of Hostile Laws*

3. Sess. 1. Parl. Fac. Reg. 29. Junii 27.

Eliz. 22. Feb. The Lords by a Message without any paper sent unto them, have been prayed by the Commons House to amend the sense of some of their amendments, that so the House might further proceed therewithall, which hath accordingly been performed, and then their amendments have been considered, allowed and returned, 23. Eliz. 17. Martii, *In the Bill touching Scottish orders.*

In the Bill against vagabonds, 13. Eli. It was resolved, that certain words required by the Lords to be put out, should not be put out of the Bill, but stayed still in the same, qualified with other words; with condition, that if the Lords should not agree to the said qualification, the House would not be bound by the said resolution; which was done of purpose to avoid the hazard of the Bill, in case the Lords should not agree thereto.

I

When

When amendments of any Bill coming from the Lords are returned by the Committees, or otherwise added by the House, they ought presently to be read three times before they be put to the passage with the Bill. *In the Parliament 13. Eliz. at the third reading of a Bill which came from the Lords,* an addition in paper was by question assailed to it; the addition having been but once read, the Bill was put to the question, and the House divided upon the passage; the error being espied, after long argument thereupon, the additions were ordered to be read twice more, and the Bill was again put to the question, and passed: *this was the Bill against taking up of provisions within five miles of Oxford, which passed 25. May, in the Parliament, Anno 3. & tertio P. & M.* The Bill for exactions at masters had a Proviso annexed by the Commons House, and the Lords returned the Bill, desiring the Proviso annexed might be taken off, and a new devised by themselves put in the place thereof. *16th. Nov. 15. 1555. Anno 27. EH. 2. 5. Feb.* The Lords having made additions to a Bill passed from

from the Commons House, the Commons pray conference with them, and desire that they themselves may have leave to make a further addition to their own Bill, or that the Lords would be pleased to supply the same with an addition of theirs; which the Lords refused to do, because they found no such precedent, *Anno 27. Eliz. Fol. 81.* in the Journal, *The Bill against fraudulent conveyances* passed from the Lords, was upon the second reading refused by the House to be committed; whereupon the Lords craved a conference, and shewed it was a Bill which her Majesty called her Bill, drawn by her Council, with the advice of her Judges, and therefore wondred at the proceedings of the House; and concluded, that they expected and desired that the House would take it into their further consideration; afterwards the House by a special Committee praying their Lordships to joyn in Petition to the Queen about matters of Religion, causing the messengers to stay in the painted Chamber, after a while sent out unto them the chief Justice and others, to tell them, that when they

received an answer from the House touching the Bill of fraudulent conveyances, the House should have an answer touching the Petition.

An. 27. Eliz. 10. Mar. Fo. 130. in the Journall, to the Bill against Jesuits, which passed from the Commons House, there were some amendments desired to be made by the Lords; the Commons by message desire the Lords to reform their desired amendments in some points, which the Committees for the Lords thought could not be done by order; but the Commons House resolved it might be well helped by a Proviso in the Commons House; and chose rather to take that course, then further to urge their Lordships therein.

Anno 27. Eliz. 13. Mar. The Bill touching the Sabbath, which upon divers conferences of the Houses received divers additions, alterations and amendments of amendments, and by that means was much defaced, was sent down by the Lords, and prayed by them that it might be new written, which was done; and so it passed again in both the Houses.

Anno

Anno 25. Eliz. 31. Mar. The Bill against Popish Recusants, First, passing from the Lords, was returned with amendments; which the Lords assented to, and sent down the same again amended by them accordingly, and so a Proviso annexed thereto to be passed, if the House should think good, which was yielded to; and the Proviso being thrice read, was with the Bill passed accordingly, 6. Apr.

This is a very remarkable Precedent, That a Proviso should be added by them who first passed the Bill, and not to have any Reference to any alteration or amendment inserted by direction from the other House.

When amendments are desired by the Lords to a Bill past from the lower House, and thrice read, the question ought to be, whether the House will be pleased to admit of those amendments; and that being yielded unto, the Bill it self ought not again to be put to the question.

If it be resolved to allow the amendments, the alterations are usually made by the Clerks servants sitting

without the Parliament-door, according to the direction in paper annexed to the Bill; and the Clerk is trusted with the examination thereof.

In the fourth Session of the first Parliament of King James, it was conceived by some of the Commons House, that by reason that Bills which are passed in both Houses, and oftentimes razed in either House, and no mention made any where of such razures lawfully made, that it might give occasion to persons ill-disposed to make razures in Bills past, much to the prejudice of the Commonwealth: it was therefore moved, that the L. Chancellor for the upper House, who supplies the place of Speaker there, and the Speaker in the house of Commons, should subscribe their hands to every Bill so razed; and that mention should be made upon the Bill of all the razures therein; but this motion was not further prosecuted.

SECT.

S E C T. VII.

Touching the sending of Bills from one House to the other.

WHen the Speaker hath in his hands a convenient number of Bills ready passed, as five or six, or thereabouts, he then putteth the House in mind of sending them up to the Lords, and desireth the House to appoint Messengers, who accordingly do appoint some one principal member of the House for that purpose, to whom the Bills are delivered in such order as he ought to present them to the Lords; which is done by direction of the Speaker, except the House be pleased to give special direction therein.

The order which hath usually been observed in ranking of them, is, First, to place them that came originally from the Lords.

Secondly, those that being sent up unto the Lords from the Commons House, were sent back to be amended.

Thirdly, publique Bills originally comming from the Commons House, and they to be marshalled according to their degrees in consequence.

Lastly, are to be placed private Bills in such order as the Speaker pleaseth.

Many times the House (with a purpose especially to grace some one Bill) sendeth it alone sometimes with a special recommendation thereof: The messenger for this purpose is usually attended by thirty or forty of the House as they please, and are affected to the business.

In the Parliament *Anno 31. Eliz. Mar.* A private Bill for the relief of one Thomas Haselridge being passed the Commons House, was sent up only with four or five messengers; to which the Lords taking exceptions, returned the Bill, saying, they had cause to doubt that it passed not with a generall consent of the House, because it passed not graced with a greater number, and left it to the consideration of the House to send it back in such sort as was fit. The principal messenger which delivered the Bills to the Lords comming in the first rank of
of

of his company to the Bar of the Lords House, with three congies, telleth the Lords, that the Knights, Citizens and Burgeses of the Commons House have sent unto their Lordships certain Bills; and then reading the title of every Bill as it lieth in order, so delivereth the same in an humble manner unto the Lord Chancellor, who of purpose commeth to the Bar to receive them.

Bills sent from the Lords to the Commons House, if they be ordinary Bills, are sent down by Sergeants at Law, or by two Doctors of the civil Law, being Masters of the Chancery, and being attendants in the upper House, accompanied sometimes with the Clark of the Crown, an attendant there.

Bills of greater moment are usually sent down by some of the Judges assistants, there accompanied with some of the Masters of the Chancery, who being admitted entrance, do come up close to the Table where the Clark sitteth, making three congies; and there acquainting the Speaker, that the Lords have sent unto the House

certain Bills, doth read the Titles, and delivers the Bills to the Speaker, & so again departeth with three congies: when they are out of the House, the Speaker holdeth the Bills in his hands, and acquainteth the House, that the Lords by their Messengers have sent to the House certain Bills; and then reading the Title of every Bill, delivereth them to the Clark to be safely kept, and to be read when they shall be called for.

Bills originally preferred to the Lords House, have such proceeding in that House in all points, as Bills preferred to the Commons House have there; onely when any question is made in the Lords House, the triall thereof is by saying, Content, or not content; and if that be doubtful; then by telling the Poles, without dividing the House.

SECT. VIII.

Touching the Royal Assent.

WHen Bills are thus passed by both the Houses, upon three several readings in either House, they ought for their last approbation, that so like to silver, they may be seven times purified) to have the Royal Assent, which is usually deferred till the last day of the Session: But it may be given at any time during the Parliament; touching which it hath been much doubted, and oftentimes debated, whether the Royal Assent given to any one Bill, doth not *ipso facto* conclude that present Session; which question is of great consequence; for if thereby the Session be at an end, then ought every other Bill not having the Royal Assent (though it hath passed both the Houses) to be again there read three times in either House, and to have the same proceedings as at first, as if nothing had been formerly

ly

ly done therein; so must it be of all other Acts of the House. But in the last Session of the first Parliament of King James, the House being then desirous to have a Bill to be forthwith passed, declared that the Royal Assent to one Bill or more did not dissolve the Session, without some special Declaration of his Majesties pleasure to that purpose, 8. April 1604. in the Journall.

So likewise it appeareth by the Journall 1. & 2. Phi. & M. 21. November, that the King and Queen came of purpose into the Parliament House to give their Assent to Cardinal Pooles Bill. And upon question made, it was then resolved by the whole House, that the Session was not thereby concluded, but that they might proceed in their business, notwithstanding the Royal Assent given; but for more security it is usual to insert a Proviso to that purpose.

At the giving the Royal Assent, it is not requisite that the King be present in person; for by express words of the Statute of 33. of Hen. 8. Ca. 21. The Kings Royal assent by his Let-

ters Patents under the Great Seal, signed by his hand, and decreed and notified in his absence to the Lords Spiritual and Temporal, and to the Commons assembled in the higher House, is and ever was of as good strength and force as though the King had been there personally present, and had assented openly and willingly to the same; according to which Statute the Royal Assent was given by Commission, Anno 38. H. 8. unto the Bill for the Attainder of the Duke of Norfolk, and very oftentimes since.

The Royal Assent is given in this sort; After some solemnities ended, of which mention shall be made in the Chapter which treateth of the conclusion of the Parliament, the Clerk of the Crown readeth the title of the *Bills* in such order as they are in consequence; after the title of every *Bill* is read, the Clerk of the Parliament pronounceth the Royal Assent, according to certain instructions given him from his Majesty in that behalf.

If it be a publick *Bill* to which the King assenteth, the answer is, *Le Roy le veut.* If

If a private *Bill* allowed by the King, the answer is, *Soit fait comme il est desire.*

If a publick *Bill* (which the King forbearcth to allow) *Le Roy se avise-ra.*

To the Subsidie-*Bill*,

Le Roy remercy ses loyaux Subjects, accept leur benivoence, & aussi le veut.

To the General Pardon,

Les Prelates, Seigneurs & Communs en cest Parliament assembles au nom de toutes vus autres subjects remercient humblement vstre Majesty, & prient Dieu vous donner en sante, bone vie, & longue.

And thus much concerning passing of *Bills* according to the modern practice: in ancient times the practice was much differing, as elsewhere shall be declared; but that ancient order, as it was nothing so curious as this, so was it not so safe for the Subject, as by comparing both together will easily appear.

A Report of divers memorable passages between both Houses in the Parliament 18 Eliz. concerning the adding of a Proviso by the Commons unto a Bill sent to the Lords, ingrossed, and signed by the Queen, and passed by the Lords, for the restitution in blood of a certain Lord, and sent down by the Lords to the House of Commons.

A Noble Lord, whose father was attainted of murther, (and thereby his blood corrupted) made suit to the Queen to be restored in blood by Parliament; which she inclined unto, and in declaration of her good liking thereof, signed his *Bill* ingrossed, which passed the Lords House, and was sent down to the Commons.

The *Bill* upon the second reading by some was impugned, through mistake of the person, and by some others, for that there wanted a Proviso for Purchasers from his Father and other Ancestors.

To the first it was answered, that see

seeing her Majesty had signed the *Bill*, no doubt she was satisfied touching the person; and he being a young Noble man, there was great hope of him.

To the second, that if the saving (which was already in the *Bill*) were not sufficient, there might be other provision.

The *Bill* was committed, and the Committees thought to add a Proviso to bar the Lord, that he should not take advantage of any errors in any Fine, or other conveyance by his Father or Ancestors, but should be in that case as though his blood were not restored, in which state he can bring no Writ of Error: the occasion of which Proviso grew chiefly, for that the Lords had within few days before in this Session dashed a *Bill* that passed in the Commons House for the helping of such errors; whereupon they thought it dangerous to give that scope to any man that should be restored in blood; and therefore they added such a Proviso both in this *Bill*, and other *Bills* of like kind.

The said Lord endeavoured by his Counsel to satisfy the Committee, that the saving in the Bill was sufficient without a new Proviso; but they being not satisfied therewith, he procured a message from the Lords to the Commons, that the Bill might pass in such sort as was signed by the Queen without any addition, which they thought could not be made without the consent of her Majesty; which message was sent after the Committee had agreed upon the Proviso, and reported the same to the House. The Commons took this manner of dealing to be very strange, not having heretofore received any such message from the Lords, tending to prescribe them what they should do in the actions of that Council; and notwithstanding that message, intended to proceed as they had begun.

The next day the Lord procured another message from the Lords, desiring a meeting and conference with the Commons about it; which message, the Commons conceiving it strange to be in this manner presented,

fed, they gave the *Bill* a third reading and the new Proviso, as the course is, and so sent up the *Bill* to the Lords with the Proviso annexed, with one other *Bill*.

Herewith the Lords were greatly moved, and the same afternoon sent a message to the Commons House by Mr. Justice *Munson*, and Serjeant *Barham*, that some of them should come to speak with certain of the Lords in such matters as they had to say to them, and to the Commons House; according to which message certain of the Commons House were appointed, and did give attendance, on the morrow morning between eight and nine of the clock in the Painted Chamber, sending in word by the Usher of their being there.

The Lords, after a great pause, at last came forth into the Painted Chamber; the number of them were many, and the persons of the principal Noblemen of that House: after they had taken their places at a long table, and used some conference amongst themselves, they called for those of the Commons House, to whom

whom the Lord Treasurer, in the name of all the rest present and absent, said in effect ;

That the Lords of the Upper House could not but greatly mislike the dealing of the Commons House in their passage of that *Bill*, especially for that they had passed the *Bill* with a Proviso annexed, notwithstanding their sundry messages sent to them in his favour; and lastly, one message to have conference with them for resolution of such doubts as were moved ; wherein they took themselves greatly touched in honour, and thought that the Commons House did not use that reverence towards them as they ought to do. The cause besides, (he said) was such as they saw no reason why the Commons House should proceed in that order ; for the *Bill* being signed by her Majesty (he said) none might presume to alter or add any thing to it without the assent of her Majesty, which they for their parts durst not do ; for proof whereof he shewed the Committees sundry Provisoes in the time of King *H. 8.* annexed to the like *Bill* signed by

by the King, inferring thereby that none might pass otherwise; moreover he said that by the opinion of the Judges which were in the Upper House, the saving which was in the Bill was so sufficient as there needed no addition of such Proviso as the Commons House have annexed; and therefore required them to know what reasons did lead them to proceed in this order.

This and some other large speeches being uttered to this end, the Committees answered, That their Commission was only to hear what their Lordships would say; they would return and make report to the House, and so attend upon them again with answer.

When this was reported to the Commons House, it moved them all greatly, and gave occasion of many arguments and speeches, all generally misliking that kind of dealing with them, and thinking their liberty much trenched upon in three points; One, that they might not alter or add to any Bill signed by the Queen; Another, that any conference should be looked for, the Bill remaining with them, except themselves saw

*saw cause to desire it : And the third ,
to yield a reason why they passed the Bill
in that sort.*

After all these things were sufficiently debated, an answer was agreed upon to be returned to the Lords by the same Committees, and they gave their attendance upon the same Lords in the same place; to whom was said in effect by one of the Committees, and by the consent of the rest,

That they had delivered to the Commons House the sense of that which their Lordships had said unto them , which as they had conceived , did stand upon two parts ; One on the manner of their proceeding in this case ; And the other on the matter wherein they had proceeded.

To both which they had commission from the House to make unto their Lordships this answer :

First, *That they were very sorry that their Lordships had conceived such an opinion of the House, as though they had forgotten their duty to them ; praying their Lordships to think that the Commons House did not want consideration of the Superiority of their*
be-

honourable estate, in respect of their honourable calling, which they did acknowledge with all humbleness; protesting that they would yield unto their Lordships all dutiful respects, so far as the same was not prejudicial to the Liberties of their House, which it becometh them to leave to their posterities in the same freedom they have received them.

And touching the particular Case, the manner of their proceedings (as they think) hath not been any way undutiful or unseemly.

For the Bill being sent from their Lordships to the Commons House, received there (within little space) two readings; and because upon the second reading, some objections were made to lett the course of the Bill, the House thought fit to commit it; which doth shew that they had no disposition to overthrow the Bill, but to further it, both in respect of her Majesties signature, and that it came passed from their Lordships; and whether the Lord whom it concerned had cause or not to think himself favourably used in being heard by the Committee with his learn-

learned Counsel, they referred to their Lordships judgments. That after the Committees report of their doings, the House gave the Bill a third reading, and so passed the same in such sort as now their Lordships hear it, notwithstanding their sundry messages to the contrary; And lastly, notwithstanding their message of conference, they said they could not otherwise have done without breach of their liberties, for they took the order of Parliament to be, that when a Bill is passed in either House, "that House wherein the Bill remaineth may desire conference with the House that passed the Bill, if they think good, but not otherwise; and this Bill passing from the Lords to the Commons House, they might desire conference; but not their Lordships, the Bill passing from themselves.

And thus much for the manner of their proceedings; touching the matter wherein they have proceeded, in that they annexed a Proviso to this Bill, "the same being signed with her Majesty's hand, they thought they might lawfully do it without her Majesty, "taking her signature to be only a record
"com-

" commendation of the cause to both the
 " Houses, without which they could not
 " treat of any Bill of that nature; the
 " House not being thereby concluded, but
 " that they might alter or add any
 " thing that should be thought meet
 " either for her Majesty or the Sub-
 " ject, which Proviso they have deli-
 vered upon good consideration, not hastily
 and inconsiderately, but upon great
 and sufficient reasons moving them,
 praying their Lordships so to conceive
 it: " Nevertheless to declare the rea-
 " sons in particular to their Lordships,
 " as they were required on that part,
 " the House desired their Lordships to
 " bear with them, for that were to yield
 " an account of the doings of things
 " passed in their House, which they
 " could not in any wise agree unto, be-
 " ing so prejudicial to their liber-
 " ties.

This speech finished, the Com-
 mittees were willed by the Lords to
 return unto the nether end of the
 Chamber; and after some pause and
 consultation amongst the Lords, they
 called again the Committees, and to
 them

them was said by the Lord Treasurer, that the Lords had considered the answer that the *Committees* had brought to them from the Commons House; and touching the first part thereof, he said, that although through such information as was given them, they might have cause to conceive amiss of the House in the manner of their proceedings, yet because themselves were the truest reporters of their own actions, and the best interpreters of their own meanings, the Lords did therefore accept thereof, and rested satisfied with the same.

But touching the other part, he once again pressed the *Committees* to shew cause why the House added that Proviso which the Lords took to be suspicious; the Bill (as he said) containing in it a saving that was sufficient for all causes that might happen.

To that was said by one of the *Committees*, that they humbly thanked their Lordships that it pleased them to accept of their answers to the first part; but for the second, which concerned the matter it self, and the reasons that moved the House, he said, the *Committees*

K

had

had no further authority to deal in, having only commission to deliver to their Lordships the answers which they received from their House.

Whereupon the Assembly brake up, the Lords returning to the higher House, and the Committees to their House; where at their coming, one of them reported their whole proceedings with the Lords, wherewith the House was much satisfied, seeing that so great a storm was so well calmed, and the liberties of the House preserved; which otherwise in time to come might have been prejudiced in those three points before remembred, which are indeed, if they be well considered, of great weight and importance.

The Bill (as it appeared after) *passed no further*; the Lords not liking the Proviso, nor the Commons House yielding to the withdrawing of it, for the causes afore declared.



*Concerning amendments of
Bills in the Journall of
31. Hen. 8.*

*Die Veneris 23. die Maii existens,
15. Parliamenti.*

*A Bill passed both Houses
in one day.*

Hodie per Dominum Vicegerent,
quædam introducta est Billa
concedens Reg. Majestati authorita-
tem constituendi Episcopos in diversis
locis hujus Regni sui, quæ quidem
Billa prima, secunda & tertia vice lecta
traditur Regis Attornato in Domum
Communem deferend. & immediate
per ipsos de Domo Communi relata &
expedita.

Die Martis 24. die Junii 20. die
Parliamenti post prorog. &c.

*A Bill by Assent amended after it had
passed both Houses.*

Memorandum quod hodierno die
concordatum est inter Proce-
res & Communes, quod cum in Billa
concernente stabiliamentum opinio-
num, inactitatum sit ut hujusmodi sa-
cerdotes qui antehac uxores duxerint
easdem ante festum Sancti *Johannis
Baptiste* (qui hodierno die est) re-
pudiarent, ut nunc alter dies illis ad
easdem repudiend. limitaretur, qui
est duodecimus dies instantis mensu
Junii, & ut *eadem Billa in dicta sen-
tentia raderetur & emendaretur.*
Quod nota.

Die Sabbati 28. die Junii 24. die
Parliamen. post prorog. &c.

*Concerning the adding of a Proviso by
the Commons to a Bill by them
sent up.*

Memorandum quod immediate
post decessum præfati *Willielmi
Kingston & aliorum, Richardus Riche
Miles* Cancellarius augmentationis re-
ventionum coronæ Domini Regis, &
alii de Domo inferiori proceribus de-
claraverunt, eos *Regiam Majestatem*
convenisse, illique supplicasse, quatenus
eis liceret, annectere billæ concernenti pu-
nitionem eorundem qui accipitres, da-
mas, aut cuniculos suæ Majestati
pertinentes furaciter capient, provi-
sionem quandam limitantem tempus ac-
cusationis pro transgressoribus ejus-
dem Billæ, *Regiamque Majestatem*
eis Petitionem suam hac in parte
concessisse; verum priusquam in Domum
Communem reversi sint, dictam Bil-
am per *Willielm. Kingstone* militem

& alios ad Proceres fuisse allatam. Itaque præfatus *Richardus* Proceres (nomine Communitatis) rogavit, ut vel prædictam Billam illis remitteren, ut illi hujusmodi provisionem eidem annecterent, aut ut illis placeret talem provisionem componere, & eam dictæ Billæ annex. in Dom. Commun. mittere, cui per Dominum Canc. ex assensu Procerum responsum est, quod si præfatus *Richardus* hujusmodi provision. componeret, eandemque Proceribus afferret, illi circa eandem procederent prout inde causam cernerent.

A Ca-



A Catalogue of the Names of the Speakers of the Commons House of *Parliament.*

IN the Reign of *William Rufus* there was a great Councel of Parliament held at *Rockingham*, as may be collected out of the History of *Edmerus*, for he termeth the same; *Totius Regni Adunatio*, and saith, that a certain Knight came forth and stood before the people, and spake in the name and behalf of themall, whereby the mind and consent of the people was understood, who (as is conceived) was the Speaker of the Commons; but the Author nameth him not: this is mentioned onely because of the antiquity thereof.

Petrus de Mounif rd.

44 H. 3.

That he was Speaker of the House of Commons may be collected out of the Register of St. *Albane*, Fol. 207. where it is said, that he *Vice totius communitalis* consented to the banishment of *Adomar de Valence*, Bishop of *Winchester*; by which also it may be conceived, that the Lords and the Commons in that time sate in several Houses, or at leastwise gave their assents severally.

Scrope.

6 Ed. 3.

Monseigneur *William Trassel.*

13 Ed. 3.

The Commons answer by his mouth, and therefore it is conceived he was their Speaker, though not so named in the Record.

Sir Peter de la Mare.

49 Ed. 3.

Sir Thomas Hungerford.

51 Ed. 3.

This is the first named Speaker upon Record. 51 Ed. 3. n. 89.

Sir Peirce de la Mare.

1 Rich. 2.

Sir

<i>Sir James Pickering.</i>	2 Rich. 2.
<i>Sir John Goldesborough.</i>	3 Rich. 2.
<i>Sir John Goldesborough.</i>	4 Rich. 2.
<i>Sir Richard Walgrave.</i>	5 Rich. 2.

He was the first that made excuse, desiring to be discharged (for ought appearing in Record;) but the King commanded him upon his allegiance to accept the place, seeing he was chosen by the Commons.

<i>Sir James Pickering.</i>	6 R. 2.
-----------------------------	---------

No Speaker recorded from 6 R. 2. to 17.

<i>Sir John Bushey.</i>	17 R. 2.
-------------------------	----------

He was presented to the King in full Parliament by the Commons, the first I find so presented; he was a special Minion to the King.

<i>Sir John Bushey.</i>	20 R. 2.
-------------------------	----------

There are many Parliament-rolls of R. 2. which mention no Speaker, as 11, 13, 14, 15, 16, 18.

<i>Sir John Bushey.</i>	21 R. 2.
K. 5.	This.

This Parliament was held in the Palace yard of *Westminster*, in a long house built with Timber of purpose, left open at both ends; both the Houses sat together therein, an especial place made for the Speaker: the cause of this extraordinary meeting was the impeachment of the Duke of *Gloucester*, the Earl of *Arundel* and *Warwick*.

Sir *John Cheyney*.

1. H. 4.

He is stiled in the Roll not onely *Parlour*, but *Procurator de les Commons*: the next day after he was presented he grew sick, and the *Commons* made choice of Mr. *John Dormood* in his place; and yet he came up with the *Commons* to the *Lords House*, and prayed to be discharged, by reason of his infirmity, declaring whom the *Commons* had made choice of, and prayed he might be accepted, which was granted; and he made the like Protestation as Sir *John Cheyney* had done, which was, that he might have liberty to amend any mistaking in that which he should deliver from the
Com-

Commons, and made none of the other requests now usual.

John Dirwood Esquire. 1. H. 4.

He made no excuse, for ought appeareth.

Sir Arnold Savage. 2. H. 4.

The first time appearing upon any Record that the Commons were required by the King to choose a Speaker, but afterward it is still continued, only omitted 16. of *Henry* the Fourth.

Sir Henry de Redeford. 4. H. 4.

Sir Arnold Savage. 5. H. 4.

After he had made the ordinary protestation concerning his own mistakings, he further desired the King in the names of the Commons, that they might freely make complaint of any thing amiss in the Government, and that the King by the sinister information of any person would not take offensively that which they should

should complain of in that behalf:
which Petition was yielded unto by
the King. 5. H. 5. 11. 8.

Sir *William Sturmy.* 6 H. 4.

Sir *John Cheyney.* 6 H. 4.

Parliamentum indoctorum, so called,
because in the writ of Summons there
was a Clause no Lawyer should be
chosen.

Sir *John Tiptot.* 7 H. 4.

He desired to be discharged, because
of his youth, but he was nevertheless
allowed of; but having forgotten to
make the usual protestations upon the
day of his allowance, he came up the
next day and made it, and added
further (which never any Speaker did
before or since) that if any writing
were delivered by the Commons in
this Parliament, and they should desire
to have it again to amend any thing
therein, it might be restored to them;
which was granted, *R. Par. 7. Henry*
4. n. 6. he was the son of *John Lord*
Tiptot, and in the tenth year of
Henry

Henry the fourth was made Lord Treasurer of *England*, and created Earl of *Worcester* by *H. 6.* while he was Speaker he signed and sealed the Deed of the intailing of the Crown, *7 H. 4.* with these words, *Nomine totius Communitatis.*

<i>Thomas Chaucer</i> Esq.	9 H. 4.
<i>Thomas Chaucer</i> Esq.	10 H. 4.
<i>Thomas Chaucer</i> Esq.	13 H. 4.
<i>William Sturton</i> Esq.	1 H. 5.

This Speaker, without the assent of his Companions, did agree before the King to deliver in Parliament certain Articles; but about three dayes following, the Commons finding themselves agrieved therewith, sent unto the Lords (the King being then present) *Mr. John Dorewood*, and divers of the Commons with him, and declared to the King that their Speaker had no authority from them to yield thereunto, and therefore they desired to be excused therein, which the King was pleased to accept: about 2 months after the Commons coming before the King did present for their Speaker.

Speaker the same Mr. *John Doreward*, because their old Speaker being sick in his bed was not able to execute the place, whom the King allowed of.

<i>John Doreward</i> , Esquire.	1 H. 5.
<i>Thomas Chaucer</i> , Esquire.	3 H. 5.
<i>Walter Hungerford</i> , Esquire.	2 H. 5.
<i>Richard Redman</i> , Esquire.	3 H. 5.
<i>Sir Walter Beauchamp</i> .	3 H. 5.
<i>Roger Flower</i> , Esquire.	4 H. 5.
<i>Roger Flower</i> , Esquire.	5 H. 5.
<i>Roger Flower</i> , Esquire.	7 H. 5.
<i>Richard Baynard</i> .	9 H. 5.
<i>Roger Flower</i> , Esquire.	1 H. 6.
<i>John Russel</i> , Esquire.	2 H. 6.
<i>Sir Thomas Wanton</i> .	3 H. 6.
<i>Richard Vernon</i> , Esquire.	4 H. 6.
<i>John Tirell</i> , Esquire.	6 H. 6.
<i>William Allington</i> , Esquire.	8 H. 6.
<i>John Tirel</i> , Esquire.	9 H. 6.
<i>John Russel</i> , Esquire.	10 H. 6.
<i>Roger Harst</i> , Esquire.	11 H. 6.
<i>John Bowes</i> , Esquire.	14 H. 6.
<i>Sir John Tirrel</i> .	15 H. 6.
<i>Sir John Tirrel</i> .	17 H. 6.

The King taking notice of the sickness of the Speaker, and that by reason

son thereof he could not intend the affairs of the Parliament, commanded the Commons to make choice of a new Speaker; who accordingly did make choice of one Mr. *William Boerly*, and did by one *John Hody* (Knight of the Shire) inform the King thereof, who thereupon was allowed of by the King without any more ceremony.

<i>William Boerly</i> , Esquire.	17 H. 6.
<i>William Tressam</i> , Esquire.	18 H. 6.
<i>William Burley</i> , Esquire.	23 H. 6.
<i>William Tressam</i> , Esquire.	25 H. 6.
<i>John Day</i> , Esquire.	27 H. 6.
<i>Sir John Pepham</i> .	28 H. 6.

His excuse by reason of his age and impotency by his service in the war, was allowed of by the King, and the same day the Commons presented Mr. *William Tresham* for their Speaker, and he was allowed.

<i>William Tresham</i> , Esquire.	28 H. 6.
-----------------------------------	----------

He made no excuse at all, for ought appearing on the Record.

Sir

Sir *William Oldham.* 29 H. 6.

He made no excuse.

Thomas Thorp, Esq. 21 H. 6.

Thomas Thorp, Esq. 31 H. 6.

He was arrested in execution at the suit of the Duke of York between two Sessions of Parliament; wherein the opinions of the Judges being demanded by the Lords, they answered, it belonged not unto them to judge of the liberties of Parliament; whereupon (without them) it was adjudged that he was not to have privilege; which was signified to the Commons by some of the Lords and the Kings pleasure for present chusing of a new Speaker was declared unto them; whereupon they forthwith chose Sir *Thomas Charlton.*

Sir *Thomas Charlton.* 31 H. 6.

Sir *John Wenlock.* 33 H. 6.

Thomas Tresham, Esq. 38 H. 6.

John Green, Esq. 39 H. 6.

Sir *James Siranwaies.* 1 Ed. 4.

John Say, Esq. 7 Ed. 4.

William

<i>William Allington, Esq.</i>	12 Ed. 4.
<i>Willism Allington, Esq.</i>	17 Ed. 4.
<i>Iohn Wood, Esq.</i>	22 Ed. 4.
<i>William Caresty, Esq.</i>	1 R. 3.

In these times the Lord Chancellor, Speaker of the Lords House (being for the most part a Bishop) took a Text out of Scripture, or some other Theme, and grounded his Oration thereupon, therein declaring the cause of the Summons of the Parliament; and in conclusion thereof, as the use now is, declared to the House of Commons the Kings pleasure, that they should repair to their House and make choice of a Speaker, not naming any day when they should present him (as is now used;) and when the Commons had chosen their Speaker, they sent up some of their House to the Lords to desire them to intimate to the King that they had made choice of a Speaker, not naming whom, and to move the King to appoint a time when they should present him, and (commonly the King having been formerly spoken unto) the day agreed upon by the K. was declared to them.

them; at the day appointed, the Commons presented their Speaker, who prayed that he might be excused; but his excuse not being admitted, he maketh the common protestation touching his own mistakings, without any petitions in the behalf of the Commons, as is now usual.

Thomas Lovel, Esq.

1 H. 7.

After Knighted and made of the Privy Council to King *Henry 7.* and *Henry 8.*

John Mordant.

3 H. 7.

Sir Thomas Fitzwilliams.

4 H. 7.

Richard Empson, Esq.

7 H. 7.

Learned in the Laws, Recorder of *Coventry*, afterwards of the Privy Council to *Henry 7.*

Sir Reginald Bray.

11 H. 7.

He made the usual protestation for himself, but there is no mention at all upon the Record concerning any petition for the liberty of the Commons.

Robert

<i>Robert Drury, Esq.</i>	11 H. 7.
<i>Thomas Inglefield, Esq.</i>	12 H. 7.
<i>Edmund Dudley, Esq.</i>	19 H. 7.

Learned in the Laws, he was afterward of the Privie Council to *Henry 7.*

<i>Sir Thomas Inglefield.</i>	1 H. 8.
<i>Sir Robert Sheffield.</i>	3 H. 8.

Recorder of London.

<i>Sir Thomas Nevil.</i>	6 H. 8.
--------------------------	---------

The Speakers presentment, excuse, and protestation were only entered on Record before this time, but no oration of theirs till this time.

<i>Sir Thomas More.</i>	14 and 15 H. 8.
-------------------------	-----------------

Chancellor of the Dutchy of *Lancaster*, after Lord Chancellor of *England*; he was Speaker of the House of Commons in this Parliament, and Speaker of the Lords House the next; he made the usual protestation for himself, and prayed if any of the
Com-

Commons should in debate of matters speak more largely then they ought, that it might be pardoned by the King; which the King granted.

Thomas Andley.

21 H. 8.

Serjeant at Law, Chancellor of the Dutchy of *Lancaster*, Lord Keeper of the Great Seal; in 24 H. 8. made Lord Chancellor of *England*, and lastly created a Baron: he made the usual protestation for himself, but there is no mention upon the Record of any petition by him made in the behalf of the Commons.

I have not found any Speaker named in the Record or Chronicles in these years of H. 8. viz. 22, 23, 24, 25, 26, 27.

Richard Rich.

28 H. 8.

Afterwards made L. Chancellor, and created a Baron; the first that is recorded to have made request for access to the King: from him are descended the Earls of *Warwick* and *Holland*, now living.

Sir

Sir Nich. Hare.

31 H. 8.

Afterwards Master of the Rolls, and after that Lord Keeper of the Great Seal of *England*, after which he lived but fourteen days.

Thomas Moy'e Esq.

34 H. 8.

The first that is recorded to have made petition for freedom of speech; the petition for priviledge from arrest is of latter dayes, but it appears in the first of *H. 4.* that Sir *John Cheney* then Speaker made a general request that the Commons might enjoy their ancient priviledges and liberties, not naming any liberty in particular; and he is noted to be the first that is recorded to have made that request, but they all make the usual request or protestation touching themselves.

In the latter end of the reign of *K. H. 8.* there is no mention made in the Parliament-Roll of the present ing of any Speaker, nor in the time of *E. 6.* or Queen *Mary*, nor during the reign of

of Queen *Eliz.* when Sir *John Puckering* was Speaker, but the memories of the Speakers names of those latter times is onely presented in the Journals of both houses.

Sir *John Baker.* 1 *Ed. 6.* to 5.

Four Sessions. Chancellor of the Augmentations.

Sir *James Dyer*, Knight. 7 *Ed. 6.*

Serjeant at Law, afterwards Kings Serjeant, and Lord Chief Justice of the Common-Pleas.

John Pollard, Esq. 1 *Mary.*

Learned in the Laws, he continued Speaker during two Sessions.

Clement Higham, Esq. 1. & 2. *P. M.*

Learned in the Lawes, and one of the Privie Councel afterward Knighted, and made Lord Chief Baron of the Exchequer.

John.

John Pollard, Esq. 2. and 3. P. M.

Learned in the Lawes, afterward made Serjeant.

William Cordal, Esq. 1. & 2. P. M.

Master of the Rolls and one of the Privie Councel; he was Knighted the day he made his Oration, and was Master of the Rolls when he was chosen Speaker; as may appear by comparing the date of his Letters Patents, with the time of his being chosen Speaker.

Sir Thomas Gargrave. 1 Eliz.

Learned in the Lawes, and one of the Queens Councel in the North: he made the four Requests, ever since and now usually made by most Speakers, as appears by his Oration.

First, for free access to the Queen.

Secondly, liberty of speech.

Thirdly, for priviledge from Arrests.

Fourth-

Fourthly, that his mistaking might not prejudice the House.

Thomas Williams Esq. 5 Eliz.

Learned in the Lawes.

Richard Onslow Esq. 8 Eliz.

The Queens Solicitor ; he was first chosen Member of the Commons House, and then being made Queens Solicitor had a writ to attend in the upper House , and upon the death of *Mr. Williams*, at the request of the Commons, was sent unto them , and they chose him their Speaker, but so, as the House was divided upon the question.

Christopher Wray Esq. 13 Eliz.

Learned in the Lawes, afterwards Lord Chief Justice of the Kings Bench.

Robert Bell Esq. 14 Eliz.

Learned in the Lawes, after made Ser-

Serjeant and Lord Chief Baron.

John Popham Esq.

23 *Eliz.*

Solicitor to the *Queen*, chosen in place of Sir *Robert Bell*, who was made Lord Chief Baron, and died also before this Session. Mr. *Popham* was afterwards made the *Queens* Attorney, and after Chief Justice of the Kings Bench, and one of the Privy Council; when he was chosen Speaker he was an Assistant in the Upper House, and sent for as Mr. *Onsloe* was.

Mr. Serjeant *Puckering*

27 *Eliz.*

Till twenty eight during two Sessions: afterwards made the *Queens* Serjeant and Lord Keeper of the Great Seal.

Mr. Serjeant *Snag.*

31 *Eliz.*

Afterward made *Queens* Serjeant.

Edward Cook Esq.

35 *Eliz.*

Solicitor general, afterward made
L. *Queens.*

Queens Attorney, and Knighted;
Lord Chief Justice of the Common
Pleas, a Privy Councillor, and lastly
made Lord Chief Justice of the Kings
Bench.

Mr. Serjeant *Telverton.* 39 *Eliz.*

Afterward made Queens Serjeant,
and after that one of the Judges of
the Kings Bench, and Knighted.

Mr. Serjeant *Crooke.* 43 *Eliz.*

Recorder of *London*, afterwards
made Serjeant to King *James*, and one
of the Justices of the Kings Bench,
and Knighted.

Mr. Serjeant *Phelips.* 1 *Iac.*

He was, during the time he was
Speaker made Master of the Rolls, and
yet sate as Speaker.

Sir *Ranulph Crew.* 12 *Iac.*

Serjeant at Law, afterwards made
Kings Serjeant and Chief Justice of the
Kings Bench. Sir

Sir Thomas Richardson.

18 *Iac.*

Serjeant at Law, afterwards made Kings Serjeant and Chief Justice of the Common Pleas, and after Chief Justice of the Kings Bench.

Sir Thomas Crew.

21 *Iac.*

Serjeant at Law, afterwards made Kings Serjeant.

Sir Thomas Crew.

1 *Car. Reg.*

Sir Heneage Finch.

1 *Car. Reg.*

Recorder of *London*, Serjeant at Law.

Sir John Finch.

3. & 4. *Car.*

Queens Attorney, afterwards made one of the Kings Council at Law, then Chief Justice of the Common Pleas, and lately Lord Keeper of the Great Seal.

John Glanville Esq.

16 *Car.*

Ser.

Serjeant at Law, at the Parliament begun the 13. of *April* 1640. and was dissolved *May* 5. following; and so continued but twenty two days, afterwards he was made the Kings Serjeant.

William Lenthall Esq.

16 Car.

Learned in the Laws, one of the Benchers and Readers of *Lincolns-Inne* at the Parliament which begun *November* 3. 1640.

Sir Harbottle Grimston Bar. 12 Car. 2

A Bencher of *Lincolns-Inn*, the publisher of *Sir George Crokes* Reports at the healing Parliament which began the 25. of *April* 1660. afterwards Master of the Rolls.

Sir Edward Turner Kt. 13 Car. 2

Learned in the Laws, a Bencher of the Middle Temple, at the Parliament begun *May* 8. 1661. afterwards His Majesties Solicitor Generall.

FINIS.

